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DIGEST
OF
Savings Bank Laws
BY
JOSEPH H. PRAETZ



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DIGEST
of
Savings Bank Laws

CONTAINING

The New Banking Law, the Penal
Law, the Tax Law, and other Laws
applicable to the Savings Banks
of the State of New York

By JOSEPH H. PRAETZ, LL. B.

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1914

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by
Joseph H. Praetz.

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TO ALL
WHO ARE IN THE SERVICE OF THE
EMIGRANT INDUSTRIAL SAVINGS BANK.

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EXPLANATORY.

THIS HANDBOOK is intended as an Aid to the Law for any officer, trustee, clerk, employee or depositor of a Savings Bank of the State of New York.

It presents in easily usable form the Laws applicable to Savings Banks.

It contains a digest of the New Banking Law, the Penal Law, the Tax Law and the Provisions of the Constitution of the State of New York, under which the Trustees of Savings Banks manage the Institutions over which they preside.

Each part of the law quoted and digested is followed by a reference to the section of the original law.

The numbers in parenthesis refer to sections of the Banking Law of the State of New York, except as otherwise noted, e. g.,

“(260)” means Section 260 of Chapter 2 of the Consolidated Laws of the State of New York (The Banking Law).

“(239-7a)” refers to Section 239, subdivision 7, paragraph *a* of the same.

Wherever the word “Superintendent” occurs in the following pages, the Superintendent of Banks of the State of New York is indicated.

Wherever the word “Bank” occurs in the following pages a Savings Bank of the State of New York is indicated.

THE NEW BANKING LAW is divided into twelve Chapters, with two Chapters on Penal Law added. The arrangement of the topics being for existent Savings Banks, the provisions governing the organization of New Savings Banks are contained in the twelfth Chapter.

If the reader is interested in a topic, the main provisions on the desired subject will be found in one chapter, containing a complete subject, without cross reference. If it happens to be one not used as a title, the chapter akin to the subject matter desired may be readily located, and the subtitle found at the beginning of the chapter immediately under the heading, thus facilitating the study of the Banking Law.

In fine, the work is not a reprint of the laws, nor is it an annotated law book, but it is made up of the laws, freely digested, and arranged into convenient chapters with titles easily to be remembered.

The Index to the Laws Digested, by Sections, serves to locate all other laws which relate to the same subject-matter.

It has been the author's aim to make the "DIGEST OF SAVINGS BANK LAWS" both clear and complete, and it has been written with the earnest purpose of having all the laws governing Savings Banks widely read. May it find a place on the desk of every savings bank man as a handy book of reference.

J. H. P.

CHAPTER I.

SOURCES OF AUTHORITY AND SUPERVISION.

DEFINITION OF A SAVINGS BANK.—CHARTERS TO CONFORM TO BANKING LAW.—USE OF WORD “SAVINGS” PROHIBITED TO OTHERS.—PUBLIC SCHOOL SAVINGS BANKS.—DERIVATION OF AUTHORITY.—CONSTITUTIONAL LIMITATIONS.—ENACTMENT OF BANKING LAW.—BANKING DEPARTMENT.—SUPERINTENDENT OF BANKS.—DEPARTMENTAL DUTIES.—SUPERINTENDENT’S BULLETIN BOARD AND ANNUAL REPORT.—BOARD OF TRUSTEES.—BY-LAWS.

DEFINITION OF A SAVINGS BANK.

A SAVINGS BANK, means a corporation authorized by the laws of New York State only

- (a) To receive money on deposit in such sums ;
- (b) To invest the same in such securities and property ;
and
- (c) To declare, credit and pay from its earnings such dividends, as may be prescribed by law. (2.)

CHARTERS TO CONFORM TO BANKING LAW.

Every Savings Bank of the State of New York shall be subject to the duties, restrictions and liabilities contained in the Banking Law, with its powers, privileges and duties abridged, enlarged or modified to conform thereto, notwithstanding *anything to the contrary* in its charter or act of incorporation.

(Article VIII, Section 4, Constitution New York and 281.)

Nothing, however, in the Banking Law contained, shall be construed as impairing contracts heretofore made between savings banks and their depositors *as to notice of withdrawal* of deposits. (248-1.)

DIGEST OF SAVINGS BANK LAWS

USE OF WORD SAVINGS PROHIBITED TO OTHERS.

No individual or corporation other than a Savings Bank and a Savings and Loan Association shall make use of the word "saving" or "savings," or its equivalent, in banking business. (279-1.)

Or solicit or receive deposits as a savings bank. (279-1.)

\$100 fine for every day such offence is committed. (279-1.)

PUBLIC SCHOOL SAVINGS BANKS.

PUBLIC SCHOOLS may use words "System of School Savings Bank" or "School Savings Banks" and may collect small amounts of savings from pupils and deposit the same on the day of collection, when sufficient, in a savings bank to the credit of pupils from whom money was collected; if insufficient, to the credit of superintendent or principal of school. (279-2.)

DERIVATION OF AUTHORITY

BY A SAVINGS BANK UNDER THE NEW BANKING LAW AND OTHERWISE.

THE PEOPLE OF THE STATE OF NEW YORK (sovereign power).

CONSTITUTION OF THE STATE OF NEW YORK (Adopted by the People and in force January 1st, 1895.—Article VIII, Section 4).

LEGISLATURE OF THE STATE OF NEW YORK (Constitution New York, Article III, Section 1).

BANKING LAW OF THE STATE OF NEW YORK (as interpreted by Court decisions and rulings of the Attorney-General). (Chapter II of the Consolidated Laws of New York, in particular Section 1.)

BANKING DEPARTMENT (Section 10).

SUPERINTENDENT OF BANKS (Section 10).

BOARD OF TRUSTEES OF A SAVINGS BANK (Section 260, Subdivision 1).

BY-LAWS ADOPTED BY BOARD OF TRUSTEES (Section 262).

EXECUTIVE
COMMITTEE
OF TRUSTEES.
(264-3 and 239-6.)

PRESIDENT,
TWO VICE-
PRESIDENTS,
and such officers
as Trustees elect
from their own
number or other-
wise. (263.)

SEMI-ANNUAL
EXAMINATION
COMMITTEE
OF TRUSTEES.
(272.)

DIGEST OF SAVINGS BANK LAWS

CONSTITUTIONAL LIMITATIONS ON LEGISLATURE.

The Legislature shall by general law conform all charters of savings banks to a uniformity of powers, rights and liabilities. (Constitution New York, Article VIII, Section 4.)

All charters hereafter granted to conform to such general law and amendments thereto. (Article VIII, Section 4, ditto.)

There shall be no capital stock in a savings bank. (Article VIII, Section 4, ditto.)

A Trustee of a Savings Bank is restricted as follows:

- (a) He shall not have any interest whatever, direct or indirect, in the profits; and
- (b) He shall not be interested in any loan; and
- (c) He shall not use any money or property of the savings bank of which he is a Trustee. (Article VIII, Section 4, ditto.)

ENACTMENT OF BANKING LAW.

The People of the State of New York, represented in Senate and Assembly, enacted Chapter 2 of the Consolidated Laws of the State of New York,

- (a) To be known as the BANKING LAW (1).
- (b) To be applicable to all Savings Banks of the State of New York (1).
- (c) To take effect immediately. (502.)

(Governor Martin H. Glynn signed the Bill, being Chapter 369 of the Laws of 1914, on April 16, 1914.)

This Banking Law shall be construed as a continuation of Chapter 10, Laws of 1909, as hereby amended and not as a new enactment. (501.)

All previous laws applicable to savings banks repealed. (500.)

BANKING DEPARTMENT.

The Banking Department is charged with the execution of the laws relating to savings banks. (10.)

SOURCES OF AUTHORITY AND SUPERVISION

SUPERINTENDENT OF BANKS.

The Superintendent of Banks is the chief officer of the Banking Department and has supervision of every Savings Bank and is empowered to perform such duties as are conferred upon him by the Banking Law and other laws of this state. (10.)

Appointed by the Governor, with advice and consent of Senate, his term of office is three years and salary \$10,000 per annum, under \$50,000 fidelity bond. (10.)

Oath of office to be taken and filed with Secretary of State 15 days after appointment. (10.)

The Superintendent shall keep and furnish offices for his department, as assigned to him at the State Capital. (12.)

The Secretary of State shall provide official seal for Superintendent, entitling documents so sealed to be recorded. (11.)

Superintendent may appoint four Deputy-Superintendents and such clerks, examiners, etc., as needed. (13.)

If Superintendent is absent or unable to act for thirty successive days, either 1st, 2d, 3d or 4th deputy in order, shall act after filing \$50,000 fidelity bond. (14.)

Deputies, clerks and examiners may be pensioned after twenty years' service and receive 50% of average annual salary for two years immediately preceding retirement. (16.)

The Superintendent shall not be interested in any bank under his supervision. (10.)

An Examiner shall neither obtain a loan from a bank, etc., subject to New York Banking Law—nor a gift, nor a credit—under penalty of removal. (15.)

DEPARTMENTAL DUTIES.

General Expenses of Department shall be assessed pro rata on all banks under the supervision of the Superintendent. (17.)

Expenses for services performed for one bank shall be charged against the bank benefited. (17.)

All expenses incurred by Banking Department shall be paid out of the state treasury, on the certificate of the Superintendent and the warrant of the state comptroller. (17.)

DIGEST OF SAVINGS BANK LAWS

Superintendent shall pay the state treasurer all moneys received by him, monthly, to reimburse the state. (19.)

Fees for copies of papers filed with the Superintendent, 10c. per folio—affixing seal and certifying, \$1.00. (18.)

If any person or corporation refuses or fails to pay any penalty imposed or violates any prohibitions contained in the Banking Law, the Superintendent may report to the Attorney General, who shall institute proceedings warranted by the facts. (31 and 59.)

Examinations shall be made of every Savings Bank at least once in each year. (39.)

And such other examinations, at any time, whenever the Superintendent judges it necessary or expedient. (39.)

The result of examination shall be certified on the records of the bank. (40.)

Acting as Trustee for depositors or creditors of Savings Banks, the Superintendent may enforce agreements entered into in such capacity and has power to sue. (44 and 71.)

Approval of the Superintendent—if necessary as condition precedent—is discretionary with him to grant or refuse. Written copy thereof to be filed in his office. (48.)

Extensions of time may be granted by the Superintendent, viz.:

(a) One year to commence business of a new savings bank. (49-1.)

(b) Twenty days on any report to be filed by a savings bank. (49-2.)

(c) Such period as he may deem proper to dispose of real estate to comply with law. (49-3.)

LIST OF LEGAL INVESTMENTS—ESTIMATED MARKET VALUE.

Superintendent on January 1st each year shall mail to each Savings Bank a list of stocks and bonds which are legal investments under Section 239. (52.)

To prepare such list he may employ expert assistants and apportion expense among savings banks. (52.)

He may rely on authoritative publications for his information. (52.)

SOURCES OF AUTHORITY AND SUPERVISION

He is not liable for any omission from the list or any included erroneously. (52.)

Estimated Market Value of all bonds shall be furnished by the Superintendent on or before June 1st and December 1st each year, either specifically or by classes, with such detail as he may deem necessary, being governed by actual sales during preceding five months and general business conditions. (53.)

ORDERS, BULLETINS AND REPORTS.

Superintendent may order Savings Bank to discontinue unlawful or unsafe practices—require the delinquent to appear before him and present any explanation in defense of all practices ordered discontinued. (56-1.)

He may order books and accounts accurately and conveniently kept. (56-4.)

Preference.—In liquidating Savings Banks, moneys collected shall be deposited in state banks, savings banks or trust companies, and such deposits are entitled to preference in case of insolvency. (70.)

Superintendent's Bulletin Board shall be kept in his office, and items of general interest relating to banks and bankers and corporations under his supervision and savings banks shall be posted thereon at noon on Friday of each week. (82.)

The names and addresses and other necessary information shall be posted about each savings bank which

- (a) Has filed certificate for examination. (82-1.)
- (b) Has been authorized to commence business. (82-2.)
- (c) Has had certificate of authorization refused. (82-3.)
- (d) Has been authorized to change its place of business. (82-8.)
- (e) Has merged. (82-12.)
- (f) Has had its affairs taken possession of by Superintendent. (82-15.)
- (g) Has been authorized to resume business. (82-16.)
- (h) Has had its creditors and depositors paid in full. (82-17.)
- (i) Has been finally liquidated and dissolved or discontinued. (82-18 and 82-19.)

DIGEST OF SAVINGS BANK LAWS

- (j) Has applied for approval of a change of name (82-20), and
- (k) Post all names and addresses, salaries and office to which appointed of every new appointment of Superintendent for the banking department. (82-13.)

Every item shall be posted one week, shall be placed on file and at reasonable times be open to public inspection. (82-20.)

Annual Report of Superintendent shall contain :

- (a) A summary of the state and condition of every savings bank as per its report for preceding one year. (83-1.)
- (b) A list of all savings banks approved and commencing business. (83-2.)
- (c) Statement of closed savings banks and amount of unclaimed deposits on each. (83-3.)
- (d) Statement of amounts earned on unclaimed deposits. (83-4.)
- (e) Recommendations of desirable amendments to The Banking Law. (83-5.)
- (f) Payroll and expenses of department and amounts due to department. (83-6.)

Report shall be printed on or before last day of year; usual number of copies for legislature, 1,000 copies for department, expense charged to general expenses of department. (83-6.)

BOARD OF TRUSTEES.

A Board of Trustees shall have the entire management and control of the savings bank. (260-1.)

A Trustee is presumed to have such knowledge of the affairs of savings bank as to enable him to determine whether act or proceeding violates the penal laws governing banks and corporations. (Penal 667.)

If present, dissent shall be recorded on minutes. (Penal 667.)

SOURCES OF AUTHORITY AND SUPERVISION

If absent, dissent shall be recorded within six months, otherwise in both cases he shall be deemed to have concurred therein. (Penal 667.)

BY-LAWS.

By-Laws, Rules and Regulations, not inconsistent with law, may be made by the Board of Trustees, generally, for transacting, managing and directing affairs of savings bank. (262.)

A copy of By-Laws and all amendments shall be sent to Superintendent. (262.)

DIGEST OF SAVINGS BANK LAWS

CHAPTER II.

GENERAL POWERS AND DISSOLUTION.

NO CAPITAL STOCK.—POWERS CONFERRED.—RESTRICTIONS.
—MERGERS AND CHANGE OF LOCATION OR NAME.—
YEARLY EXAMINATION BY BANKING DEPARTMENT.—UNLAWFUL PRACTICES.—WHEN
SUPERINTENDENT MAY TAKE POSSESSION.—PROCEDURE IN LIQUIDATION.—VOLUNTARY DISSOLUTION.

NO CAPITAL STOCK.

There shall be *no capital stock* in a savings bank. (Article VIII, Section 4, Constitution New York.)

POWERS CONFERRED.

General Powers Conferred on every Savings Bank, are:

- (a) To receive deposits of money. (238-1.)
- (b) To invest the moneys deposited in property prescribed in Section 239.
- (c) To declare dividends as prescribed in Section 254 and 256, and
- (d) To exercise incidental powers by its board of trustees necessary to carry on the business of a savings bank. (238-1.)
- (e) To issue transferable certificates of amounts due incorporators. (238-2.)
- (f) To purchase, hold or convey real estate as prescribed in Sections 239 and 240. (238-3.)
- (g) To pay depositors by drafts or in foreign exchange at current rates. (238-4.)
- (h) To borrow money in an emergency and hypothecate securities as collateral for loans so obtained. (238-5.) BUT FOR THIS, THE written approval of the Superintendent of Banks is necessary—is-

GENERAL POWERS AND DISSOLUTION

sued after a resolution is adopted by majority of board of trustees, duly entered upon minutes, recording "Ayes" and "Noes." (243-1.)

- (i) To collect and protest promissory notes and charge usual fees therefor. (238-6.)
- (j) To sell gold and silver received in payment of interest or on deposit. (238-7.)
- (k) To do all other acts authorized by Article VI, Banking Law. (238-8.)

RESTRICTIONS ON GENERAL POWERS.—A SAVINGS BANK

- (a) Shall not purchase, deal or trade, in any goods, wares, merchandise, except as necessary to transact authorized business. (242-1.)
- (b) Shall not nor shall any officer thereof in regular attendance upon the business of the savings bank in any manner buy or sell exchange, gold or silver, except to sell gold or silver received in payment of interest or on deposit. (238-7 and 242-2.)
- (c) Shall not do business in same room with any bank, trust company or national banking association. (245-1.)
- (d) Shall not transact its usual business, other than at its principal place of business, except merged banks, if agreement provides for separate offices. (245-2.)

MERGERS AND CHANGE OF LOCATION OR NAME.

Any two savings banks located in same city of first class, in same county or borough OR any two or more located elsewhere in same or adjoining counties may merge. (487-2.)

Change of Location may be made upon written approval of the Superintendent. (50 and 82-8.)

If proposed place of business is not within the same town, village, borough or city as old location, notice of change to be published in newspapers. (259.)

DIGEST OF SAVINGS BANK LAWS

Change of name may be effected by applying to Supreme Court, giving grounds therefor and having Superintendent's authorization for the change. (Section 61, 62 and 63, General Corporation Law and 82-20.)

YEARLY EXAMINATION BY BANKING DEPARTMENT.

At the Yearly Examination by Banking Department inquiry shall be made as to whether mode of conducting and managing affairs is safe and prudent and whether requirements of law have been complied with in the administration of its affairs. (39.)

Superintendent may order UNLAWFUL AND UNSAFE PRACTICES discontinued, allowing bank to explain acts. (56-1.)

Superintendent may take Possession if Savings Bank

(a) Has violated its charter or any law. (57-1 and 82-15.)

(b) Conducts business in unauthorized or unsafe manner. (57-2.)

(c) Is unsound or unsafe. (57-3.)

(d) Cannot with safety and expediency continue. (57-4.)

(e) Has suspended payments. (57-6.)

(f) Has not complied with terms of duly issued order of Superintendent. (57-7.)

(g) Refused to submit records and affairs for inspection. (57-8.)

(h) Refused to be examined upon oath regarding its affairs. (57-9.)

TERMINATION OF POSSESSION.

Upon satisfactory conditions the Superintendent may permit a resumption of business. (58-1 and 61 and 82-16.)

His possession terminates when depositors and creditors are paid in full. (58-4 and 82-17.)

To Test Action of Superintendent, Savings Bank may procure ORDER TO SHOW CAUSE within ten days after taking

GENERAL POWERS AND DISSOLUTION

such possession, and upon good cause shown, court may direct Superintendent to surrender possession. (58-2 and 60.)

Superintendent to report delinquencies to attorney general to procure JUDGMENT OF DISSOLUTION. Reports when duly verified shall be presumptive evidence. (59.)

Expenses of liquidation shall be paid out of the funds in hands of the Superintendent. (63.)

PROCEDURE IN LIQUIDATION.

Special deputies to liquidate. The Superintendent may, by certificate, under his hand and seal, appoint one or more Special Deputy-Superintendents as his agents to liquidate any or all of the affairs of a savings bank in his possession as he may deem proper. (62 and 69.)

A certified copy of certificate to be filed in County Clerk's office where savings bank is located. (62.)

Superintendent may employ expert assistants, counsel or clerks as he may deem necessary, requiring security as he may deem proper. (62.)

The Superintendent may obtain possession of all pleadings, etc., in actions, against which attorney's liens are asserted, by applying to court and giving notice to attorney. The court may determine amount of lien and may direct attorney to deliver to Superintendent all the property of the savings bank. (64.)

On taking possession the Superintendent shall notify those holding assets. (65.))

Inventory of Assets to be made by the Superintendent in duplicate, the one for his office and the other to be filed with the County Clerk of county in which savings bank is located. (66.)

The Superintendent has power to sue in the name of delinquent bank. (71.)

Such action is entitled to preference on the calendar. (71.)

The Superintendent may execute all necessary papers for delinquent bank. (71.)

DIGEST OF SAVINGS BANK LAWS

The Superintendent is exempt from paying filing fees. (71.)

Superintendent while in possession of savings bank may, within 6 years after cause of action has accrued, maintain in his name as Superintendent against the trustees or officers, any action which is vested in such savings bank or its creditors. (81.)

Notice to creditors to make proof of claims shall be mailed and published weekly for three months and claims to be presented within four months from date of notice. (72.)

Claims duly presented shall be listed. (73 and 75.)

One list filed in Superintendent's office and the other in County Clerk's office. (73.)

Within thirty days, objections to claims may be filed. (74.)

The Superintendent may accept or reject claims, but shall notify claimant when he rejects a duly filed claim. (75.)

Claims filed shall be listed—accepted and rejected both—and one copy of each filed in his office and the others in County Clerk's office. (75.)

The effect of accepting claim is that claimant shares ratably in assets. (76.)

Action on rejected claim shall be commenced within six months. (76.)

No action may be commenced before 60 days have elapsed since expiration of time for filing claim, and none after six months have elapsed. (76.)

The Entry of Judgment recovered after Superintendent takes possession shall not attach as a lien to any property as long as he is in possession. (77.)

At any time after date fixed for presentation of claims, Supreme Court may by order authorize the Superintendent to declare, out of the funds in his hands, one or more dividends. (78.)

At any time after eight months he may declare a final dividend by a like order. (78.)

Dividend unclaimed for six months shall be deposited by the Superintendent in a state bank, trust company, or

GENERAL POWERS AND DISSOLUTION

savings bank, and shall be entitled to priority, in case of the insolvency of depositary. (45 and 78.)

VOLUNTARY DISSOLUTION.

The board of trustees of any solvent savings bank may direct that such corporation be closed for the purpose of winding up its affairs. (486.)

Twenty days' written notice shall be served upon each trustee.

Proof by affidavit of due service shall be filed at the savings bank before or at the time of such meeting. (486-1.)

Affirmative vote of two-thirds of whole number is necessary. (486-2.)

"Ayes" and "Nays" to be recorded on each vote. (486-2.)

Proceedings to be entered upon minutes. (486-2.)

A copy of the minutes of the proceedings, verified by president and secretary, shall be filed in the office of the Superintendent within two days after the meeting. (486-2.)

Within three months after such meeting application to Supreme Court may be made, after due notice to the Superintendent, for an order declaring business of savings bank closed. (486-3.)

Within five days certified copy of order shall be filed with the Superintendent. (486-3.)

Before applying for a release upon final accounting or final order of dissolution, *savings bank*

(a) Shall have given notice prescribed in order to creditors and depositors to present their claims.

(b) Shall have paid all presenting claims.

(c) Shall have made verified transcript of all unclaimed deposits or debts.

(d) Shall have filed such transcript with all identifying information with the Superintendent, and

(e) Shall have paid over all such unclaimed moneys to Superintendent as trustee for depositors. (486-4.)

After all preceding requirements are complied with, court may declare such savings bank dissolved. (486-5.)

When certified copy of order of Dissolution is filed with the Superintendent of Banks, the savings bank ceases to exist. (486-6.)

DIGEST OF SAVINGS BANK LAWS

CHAPTER III.

CASH ON HAND AND ON DEPOSIT.

CASH ON HAND.—IN BANK.—RESTRICTIONS.—PREFERENCES.
—MAXIMUM AMOUNTS INVESTED.

Twenty per cent. of amount due depositors may be kept on hand and on deposit in any Bank or Trust Company or National Bank in this state. (251.)

Majority vote of trustees, exclusive of trustee who is also director, etc., of bank selected, shall designate depositaries. (244.)

RESTRICTIONS AND PREFERENCES.

An amount equal to 25% of depositary bank's capital and undivided profits may be deposited in any one bank, *but* only 5% of amount due depositors in depositary of which one of its trustees is a director. (251.)

Up to the amount authorized and deposited, savings banks shall be preferred creditors in the liquidation of insolvent banks or trust companies of the State of New York. Preference does not extend to deposits in national banks. (278.)

Deposits in bank shall not be deemed a loan to a corporation forbidden, and for which trustees forfeit their office if they are also directors of depositary bank. (267-2e.)

MAXIMUM AMOUNTS INVESTED NOT TO EXCEED THE FOLLOWING:

Cash on hand and in depositaries	20%	of amount due depositors. (251.)
Cash in any one de- positary	25%	of depositary's capital and undivided profits (251), <i>except</i>

CASH ON HAND AND ON DEPOSIT

Cash in any one de- positary	5%	of amount due depositors if trustee of savings bank is also director of depository bank. (251.)
Total Loans on Bond and Mortgage . . .	65%	of amount due depositors and guaranty fund. (239-6.)
Each Loan on Im- proved Real Estate	60%	of value of each parcel of land and improvements, mortgaged. (239-6.)
Each Loan on unim- proved and unpro- ductive Real Estate	40%	of value of land. (239-6.)
Total stocks, bonds, etc., of United States, States, Municipals	100%	of total assets—no limit. (239-1 to 5.)
Banking house and office building . . .	25%	of Guaranty Fund, <i>but</i> more with Superintendent's per- mission. (240.)
Loans on Demand promissory notes .	90%	of market value of such hypothecated stocks and bonds as a savings bank may buy. (239-8.)
Total Railroad Bonds	25%	of Assets. (239-7 <i>i</i> .)
Total in any one New York State Railroad	10%	of Assets. (239-7 <i>i</i> .)
Total in any other Railroad	5%	of Assets. (239-7 <i>i</i> .)

DIGEST OF SAVINGS BANK LAWS

CHAPTER IV.

INVESTMENTS.

INVESTMENTS OF DEPOSITS AND GUARANTY FUND.—REQUISITES.—RESTRICTIONS.—9. CLASSES OF INVESTMENTS.—

1 TO 5. MUNICIPAL BONDS.—6. REAL ESTATE MORTGAGES.—7. RAILROAD MORTGAGE BONDS.—

8. DEMAND PROMISSORY NOTES.—9. BANKING HOUSE AND OTHER REAL ESTATE.—

STATEMENT OF INVESTMENTS.

A Savings Bank

- (a) Shall invest as soon as practicable all moneys deposited (251) ; except
- (b) It may retain 20% of its deposits in cash and on deposit in order to pay withdrawals and expenses therewith (251) ;
- (c) And it may invest deposits and guaranty fund and income therefrom in the following nine classes of property and securities *and no others*. (239.)

FEDERAL, STATE AND MUNICIPAL BONDS.

First Class.—Bonds, etc., of the United States or District of Columbia. (239-1.)

Second Class.—Bonds, etc., of New York State. (239-2.)

Third Class.—Bonds, etc., of other states for which credit of state is pledged and not in default, and upon which there has been no default for more than ninety days during preceding ten years on debt, authorized since January 1st, 1878. (239-3.)

Fourth Class.—Stocks, bonds, interest-bearing obligations, or revenue notes sold at a discount, of any city, county, town, village, school district, union free school district or poor district *in New York State*—when duly issued and for which credit of district is pledged. (239-4.)

Fifth Class.—Stocks or bonds of cities in other states :
Admitted to statehood prior to January 1st, 1896, and State has not defaulted since January 1st, 1861, and City has population of 45,000 as shown by federal census,

INVESTMENTS

And is incorporated as city at least 25 years, and
City has not defaulted for more than ninety days since
January 1st, 1878, and

City together with municipal corporation (except
county) in whole or in part included in its limits has
not a debt exceeding 7% of valuation (water debt
and sinking fund excluded). (239-5.)

A savings bank may invest any or all of its assets in
classes I to 5. (239.)

REAL ESTATE MORTGAGES—REQUISITES—RESTRICTIONS.

Sixth Class.—*Bonds and mortgages* on unencumbered real
property in New York State. (239-6.)

65% of deposits and guaranty fund may be so loaned.
(239-6.)

Each mortgage not to exceed 60% of appraised value of
improved property, or

40% of unimproved and unproductive land. (239-6.)

No such loans to be made except committee of trustees
certify in writing as to the value of premises mortgaged; re-
port to be preserved among records of savings bank. (239-6.)

A Trustee shall not be interested in any loan. (Constitu-
tion New York, Article VIII, Section 4.)

Every borrower is required to furnish bond, secured by
mortgage of real estate upon which loan is made, together
with Abstract of Title *or* Policy of Title Insurance. (241-1.)

Attorney for the bank may collect usual fees for such
services, but no commission. (265-3.)

Mortgagor required to carry fire insurance, payable to
bank as its interest may appear, in such companies as the
bank shall direct. In case of neglect, bank may order insur-
ance, and charges become lien on property and are recover-
able with interest. (241-2.)

Officers of bank shall not divert insurance to any broker
or refuse policies because procured by other brokers. (267-
2c.)

Every mortgage shall immediately be duly recorded.
(241-3.)

DIGEST OF SAVINGS BANK LAWS

Assignment of Mortgage held by Savings Bank (or any other person or corporation) shall be made in lieu of giving a Satisfaction Piece, provided:

- (a) Mortgage is due and payable.
- (b) Demand for assignment thereof has been made of the mortgagee or holder of the mortgage by the owner of the premises mortgaged.
- (c) Full amount of principal and interest due on the mortgage is paid or is tendered.
- (d) Usual fee for drawing assignment is tendered.

The Assignment shall be duly executed and

- (a) May by its terms be without recourse to the assignor in any event, and
- (b) May discharge such assignor from any liability thereunder to the assignee. (Real Property Law, Section 275, being Chapter 408, Laws of 1914, in effect October 1st, 1914.)

Mortgage Recording Tax.—A tax of 50c. for each \$100 and each remaining major fraction of principal debt is imposed on each mortgage of real property, securing said principal debt after July 1st, 1906. (Tax Law 253.)

To be collected and paid to the recording officer of county in which real property is situated, at the time the mortgage is recorded. (Tax Law 257.)

Effect of Non-Payment of Tax.—Mortgage shall not be entitled—

- (a) to be recorded,
- (b) to be discharged of record,
- (c) to be extended on record,
- (d) to be assigned on record,
- (e) to be foreclosed or enforced, in any action or proceeding, unless Mortgage Recording Tax shall have been paid. (Tax Law 258.)

RAILROAD MORTGAGE BONDS.

Seventh Class.—*First Mortgage Bonds of Railroad Corporations* as follows:

- (a) First Mortgage Bonds or Bonds refunding all prior debts of Railroad corporations of this state, principal part of which is located within

INVESTMENTS

the state; or part of system operated by and majority of whose stock is held by a Railroad corporation of this state; provided no default for 5 years,

And paid 4% on capital stock for 5 years,

And stock is $\frac{1}{3}$ as much as total mortgage indebtedness issued or to be issued. (239-7a.)

- (b) First Mortgage Bonds on whole or part of property or bonds refunding all prior debts of fifteen railroads, viz.: CHICAGO AND NORTH WESTERN; CHICAGO, BURLINGTON AND QUINCY; MICHIGAN CENTRAL; ILLINOIS CENTRAL; PENNSYLVANIA; DELAWARE AND HUDSON COMPANY; DELAWARE, LACKAWANNA AND WESTERN RAILROAD; NEW YORK, NEW HAVEN AND HARTFORD; BOSTON AND MAINE; MAINE CENTRAL; CHICAGO AND ALTON; MORRIS AND ESSEX; CENTRAL RAILROAD OF NEW JERSEY; UNITED NEW JERSEY RAILROAD AND CANAL COMPANY;

And roads leased or operated or controlled by any one of them,

And whose principal and interest is guaranteed by one of them.

And provided earned and paid 4% per annum in cash on all stock for ten years,

And stock $\frac{1}{3}$ as much as par value of all its bonded indebtedness,

And mortgage was dated, executed and recorded prior to January 1st, 1905. (239-7b.)

- (c) First Mortgage Bonds on whole or part of property or Bonds refunding all prior debts of two railroads, viz.: CHICAGO, MILWAUKEE AND ST. PAUL ("ST. PAUL") and CHICAGO, ROCK ISLAND AND PACIFIC ("ROCK ISLAND"),

So long as they earn and pay 4% per annum on stock,

And stock is $\frac{1}{3}$ as much as par value of all its bonded indebtedness,

DIGEST OF SAVINGS BANK LAWS

And mortgage dated, executed and recorded prior to January 1st, 1905. (239-7c.)

- (d) FONDA, JOHNSTOWN AND GLOVERSVILLE. First Mortgage or Refunding all prior debts, provided stock is $\frac{1}{3}$ as much as par value of all its bonded indebtedness,

And road is standard gauge 4 ft. 8½ in. (239-7d.)

And in refunding bonds of BUFFALO CREEK RAILROAD COMPANY, provided mortgage is dated, executed and recorded prior to January 1st, 1905. (239-7d.)

- (e) Railroad of any other state *owning* 500 miles standard gauge in United States and provided there was

No default for 5 years,

Paid 4% on stock for 5 years,

Had yearly gross earnings including sales of coal, etc., for 5 years, equal to 5 times interest payable on entire indebtedness and rentals,

And it is first mortgage or refunding mortgage on 75% of railway owned in fee, and

Bonds issued or to be issued do not exceed three times amount of stock.

Refunding bonds to mature at a later date than bonds refunded and to cover 25% more mileage than refunded mortgage. (239-7e.)

- (f) *If Gross Earnings were \$10,000,000 per annum for five years next preceding and Railroad fulfills other requisites of paragraph (e), 500 miles of road not essential.* (239-7f.)

- (g) Underlying bonds of subsidiary lines of a road legal under (e) and (f) assumed or guaranteed by it and to be refunded by a general mortgage covering all the real property. (239-7g.)

- (h) In other roads described in (e) and (g) not legal (because not owning 500 miles of road), but guaranteed by roads authorized under (e) and

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- (f) provided stock is $\frac{1}{3}$ as much as outstanding prior debts. (239-7h.)
- (i) In first mortgage bonds of Railroads whose entire capital stock is owned by road qualified under (a), (e) or (f),
Provided, guaranteed by endorsement by qualified road
And issue is not more than \$20,000 per mile of road,
And stock is $\frac{1}{3}$ of all previously guaranteed bond issues (239-7i.)

Bonds legal under these provisions shall not become illegal through *sale or transfer or consolidation* of roads if new owner assumes payment and pays interest and dividends regularly equal to 4% upon capital stock outstanding at time of transfer. (239-7i.)

Street Railroad Corporations shall not be considered railroad corporations within meaning of 239-7. (239-7i.)

25% of Assets may be invested in railroad bonds. (239-7i.)

10% of Assets may be invested in one New York State railroad. (239-7i.)

5% of Assets may be invested in any other railroad. (239-7i.)

To determine assets estimate value of stocks at par for those selling above par and market for those under par. Real estate at not above cost. (257.)

Securities in arrears for interest shall be appraised by Superintendent of Banks. (54.)

LOANS ON DEMAND PROMISSORY NOTES.

Eighth Class.—*Demand Promissory* notes secured by pledge and assignment of federal, state or municipal corporation stocks or bonds as enumerated in 239—I, 2, 3, 4 and 5, or

Railroad Mortgages as enumerated in 239-7;

Up to 90% of cash market value of securities deposited.

Depreciation to be made up by borrower so that the 90% at all times obtains. (239-8.)

DIGEST OF SAVINGS BANK LAWS

REAL ESTATE.

Ninth Class.—*Real Estate* as follows:

- (a) *Plot for banking house* or for bank and office building (239-9a) and building thereon may be occupied by savings bank and as an office building. (240-1.)

Not more than 25% of guaranty fund, except with approval of Superintendent of Banks, may be so invested. (240.)

Plans to be submitted for such approval. (240.)

- (b) Real Estate conveyed to bank direct in satisfaction of debts. (239-9b.)

- (c) Real Estate purchased at foreclosure sales. (239-9c.)

Written appraisal of all real estate acquired by foreclosure or otherwise under (b) and (c), signed by three trustees shall be filed with bank. (253-1b.)

All deeds to be to the bank direct and shall be recorded. (240.)

Except banking house and lot, all real estate to be sold within five years, unless Superintendent extends time on application of Board of Trustees. (240.)

Superintendent may extend time for such period as he may deem proper. (49-3.)

LIABILITY OF TRUSTEES FOR INVESTMENTS—STATEMENTS.

Any officer or trustee authorizing or making any investment of the bank's funds in unauthorized investments, is guilty of a misdemeanor. (Penal 296.)

Trustees not to be held liable for investing in state, municipal or railroad bonds contained in the last list of legal investments issued by the Superintendent *unless* notified to the contrary by the Superintendent. (239-9c.)

List to be mailed by Superintendent on or before January 1st of each year and to contain all investments legal under Section 239. (52.)

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Superintendent may require sale of unauthorized investments, in his discretion. (55.)

Change of investment shall be made gradually by sale or redemption in such manner as to prevent loss or embarrassment to savings bank or unnecessary loss or injury to borrowers on such unauthorized securities. (281.)

Statement of all purchases and sales of securities and loans for more than \$1,000 to be submitted by officer designated by trustees, either to each trustee or to an executive committee of five trustees ;

A copy of the statement, together with a list of trustees present at the meeting, verified under oath by officer charged with duty, shall be filed with bank records no later than one day after meeting and shall be presumptive evidence of matters stated therein. (264-3.)

An officer of a Savings Bank, even though not a trustee, shall not

- (a) Use funds of the bank for himself or for another. (267-2a.)
- (b) Make unauthorized payments. (267-2a.)
- (c) Receive and retain any commissions, etc., on loans. (267-2b.)
- (d) Become endorser or surety for loan by bank. (267-2d.)
- (e) Borrow any funds of bank. (267-2e.)
- (f) Purchase real estate on which bank holds a mortgage. (267-2e.)
- (g) Direct borrowers on Bond and Mortgage to a certain insurance broker—or refuse policies, negotiated through other brokers. (267-2c.)

DIGEST OF SAVINGS BANK LAWS

CHAPTER V.

DEPOSITS AND WITHDRAWALS.

DEPOSITS.—PREFERENCES.—RESTRICTIONS: \$3,000 LIMIT.—
WITHDRAWALS.—SIXTY-DAYS' NOTICE.—DEATH CASES.—
TAXABLE TRANSFERS.—PASSBOOKS.—MINORS AS DE-
POSITORS.—TRUST ACCOUNTS.—JOINT DEPOSITS.
—ACTIONS TO RECOVER DEPOSITS.—INTER-
PLEADER.—COSTS.—STATUTE OF LIMIT-
ATIONS.—REDUCTION OF LIABILITY.—DEPOSITS NOT TAXABLE.

DEPOSITS.—A Savings Bank shall have the power:

To receive deposits of money. (238-1.)

To collect and protest promissory notes and charge usual fees therefor. (238-6.)

Shall not issue certificates of deposit payable on demand or on a fixed day. (243-2.)

PREFERENCES.—When the Superintendent deposits any unclaimed dividends or moneys of banks in liquidation in a savings bank, such deposits are entitled to preference in case of the insolvency of such savings bank. (45 and 70.)

RESTRICTIONS: \$3,000 LIMIT.—Aggregate amount to the credit of any individual at any time shall not exceed \$3,000 exclusive of dividends. (247-1.)

Included in this \$3,000 shall be accounts in the "individual" name and "voluntary and revocable trust" accounts (either as trustee or beneficiary of the trust) and "joint" accounts—but not moneys belonging to deceased persons' estates or Surrogate court moneys—nor accounts "in trust for" nor "joint" accounts opened prior to July 1st, 1913. Certified copies of wills or of appointment by Surrogate shall be filed with the bank. (247-1.)

Aggregate amount to the credit of any society or corporation at any time shall not exceed \$5,000 exclusive of dividends—unless made pursuant to a judgment or decree—certified copy thereof to be filed. (247-2.)

DEPOSITS AND WITHDRAWALS

Parents may deposit for each dependent child \$250 every six months in addition to a \$3,000 account for themselves, children for dependent parents same amounts. (247-1.)

The trustees of a savings bank may further limit aggregate amount—may refuse to receive a deposit—and may return all or any part of deposit. (247-3.)

WITHDRAWALS.—Sums deposited shall be repaid to the depositors or to their legal representatives, under regulations prescribed by the Board of Trustees of the savings bank, subject to the following restrictions:

- (a) Regulations to be posted in a conspicuous place in the banking room,
- (b) Regulations to be printed in passbooks and
- (c) Regulations so printed and published shall be evidence between the bank and the depositor holding passbook of terms upon which deposits are made. (248-1.)

Amounts may be repaid by draft or in foreign exchange at current rates. (238-4.)

SIXTY DAYS' NOTICE.—The bank may at any time by resolution of its board of trustees require a notice of 60 days before repaying deposits—personal notice of depositor then necessary. (248-1.)

Contracts heretofore made are not impaired by new banking law. (248-1.)

Payments may be made before the expiration of 60 days. (248-1.)

“60 days’ notice” shall not be waived in advance and more than “60 days’ notice” shall not be required at any time. (248-1.)

PASSBOOKS.—No withdrawals or checks shall be paid unless the passbook of the depositor be produced and entry made therein. (248-2.)

The Board of Trustees may provide by its By-laws for making payments in cases of *lost passbooks* or in other exceptional cases. (248-3.)

DIGEST OF SAVINGS BANK LAWS

DEATH CASES.—In case of the death of a depositor the sums deposited shall be repaid to his legal representatives. (248-1.)

However, when balance does not exceed \$250 and no probate or administration proceedings are necessary otherwise, savings bank may in its discretion pay the amount to widow or widower, next of kin, funeral director or other creditor who may appear to be entitled thereto.

As conditions for such payments the bank may require :

- (a) Proof by affidavit as to the parties in interest,
- (b) Filing of proper waivers,
- (c) Execution of bond of indemnity, with sureties,
- (d) Proper receipt.

For any such payments the savings bank shall not be held liable to the executor or administrator, unless payment was made within one year of decedent's death, and

Action was commenced within one year after payment. (248-4.)

TAXABLE TRANSFERS OF DEPOSITS.—No Savings Bank having in possession deposits or assets either

- (a) standing in the name of a decedent who was a resident or non-resident, or
- (b) standing in the joint names of such decedent and one or more persons :

shall transfer the same

- (a) to the executors, administrators or legal representatives of said decedent, or
- (b) to the survivor or survivors, when held in the joint names of a decedent and one or more persons, or
- (c) upon their order or request,

unless

- (a) notice be served upon State Comptroller 10 days prior to said transfer, or
- (b) a sufficient amount thereof be retained to pay any tax which may be assessed on the said transfer, or
- (c) the State Comptroller consents thereto in writing (by issuing Transfer Tax Waiver). (Tax Law 227.)

DEPOSITS AND WITHDRAWALS

Comptroller empowered to examine deposit at time of delivery. (Tax Law 227.)

Savings Bank Liable for Transfer Tax.—Failure

(a) to serve such notice,

(b) to allow such examination,

(c) to retain sufficient amount to pay tax (without waiver)

shall render BANK *liable*

(a) for tax and in addition thereto

(b) a penalty of not less than \$5.00 nor more than \$25,000.

Comptroller may enforce payment of tax or penalty or both in any court of competent jurisdiction. (Tax Law 227.)

MINORS AS DEPOSITORS.—Minors may make deposits as if they had attained majority—such deposits to be free from the control of all persons except creditors. (249-1.)

Withdrawals by minors to discharge bank. (249-1.)

TRUST ACCOUNTS.—Deposits in trust for another may be paid to person for whom deposit was made, provided no further notice of existence or terms of trust was given to bank. (249-2.)

JOINT DEPOSITS.—Joint accounts to be paid to either depositor, or the survivor, shall constitute joint tenancy, i. e., the account is payable to either during lifetime of both or to the survivor after the death of one. (249-3.)

Receipt of one of the joint tenants, in absence of a written notice not to pay, shall discharge the bank. (249-3.)

The opening of a joint account—in absence of fraud or undue influence—shall be conclusive evidence of intention of both depositors to vest title to the account in the survivor. (249-3.)

INTERPLEADER, by order, is allowed to savings bank, i. e., when a savings bank is sued and a third party claims the amount due or part thereof—the bank may ask the court to substitute the third party for the bank in the action and pay money into court and be discharged. (Section 820 Code Civil Procedure.)

DIGEST OF SAVINGS BANK LAWS

On petition of savings bank and upon eight days' notice to plaintiff and other claimants court may amend proceedings by making other claimants parties defendants. This remedy is in addition to that of Section 820 C. C. P. (250-1.)

Funds in dispute may remain on deposit with bank and shall be entitled to receive same dividends as other accounts. (250-2.)

When deposit is paid into court, the bank is discharged from liability and name stricken off action. (250-2.)

Costs against savings bank to be in the discretion of the court. (250-3.)

Costs may be charged upon the fund affected by the action. (250-3.)

STATUTE OF LIMITATIONS.—When an account is closed on the bank's books and paid, action to recover must be commenced within 20 years after date of such payment. (250-4.)

In other actions brought by depositors, etc., for deposits, the statute of limitations does not apply (250-4), *except* that actions to recover payments of less than \$250 made to a relative or next of kin, etc., of deceased depositors shall be commenced within one year after payment. (248-4.)

REDUCTION OF LIABILITY.—When estimated value of assets is less than amount due depositors, the Supreme Court may, upon petition of the savings bank, approved by the Superintendent, order a reduction of liability to each depositor and divide the loss equitably among the depositors. (280.)

PROPERTY LIABLE TO TAXATION—SHALL BE

(a) All real property within this State, and

(b) All personal property situated or owned within this State, UNLESS exempt from taxation by law. (Tax Law 3.)

Tax Law, Section 4, gives twenty subdivisions of exceptions, *and* pertinent to savings bank depositors is subdivision 14, viz.:

"The deposits in any bank for savings which are due depositors"—shall be exempt from taxation. (Tax Law New York, Section 4, Subdivision 14.)

CHAPTER VI.

DORMANT ACCOUNTS.

REPORTS: YEARLY.—FOR 1914.—SUBSEQUENT.—ADVERTISEMENTS.—PREFERENCES.—INDEX KEPT BY SUPERINTENDENT AND PAYMENTS.

YEARLY REPORT.

On September 1st each year a *Report of Dormant Accounts* shall be made to Superintendent of Banks, verified by oath of two officers. Accounts of \$10 or more which on August 1st have not been increased or diminished by deposits or withdrawals, or the passbooks of which have not been presented for entry of interest, *for twenty years*, shall be considered dormant. (274.)

REPORT FOR 1914.

Report for 1914 to contain all Dormant Accounts with balance over \$10—giving:

Date of original deposit,
Name of depositor,
Last known place of residence,
Occupation,
Date of birth,
Nationality,
Parents' names, if known,
Date of last dividend credited,
Date of last deposit or draft,
Additional data which may aid to determine ownership,
but not Amount. (274.)

SUBSEQUENT REPORTS.

Subsequent reports to contain all dormant accounts previously not reported, with the same detail, and a list of dormant accounts which have been paid or which have become active by the presentation of passbooks. (274.)

ADVERTISEMENT OF DORMANT ACCOUNTS.

After September 1st, 1914, a list of names and addresses of *Additional Dormant Accounts* shall be published once a week for two successive weeks in a newspaper, published in the village, borough, or city in which the bank is located and once in legal notice paper in Albany. (274.)

DIGEST OF SAVINGS BANK LAWS

Verified proof of publication to be filed with Superintendent on October 1st each year. (274.)

For failure to report or file proof of publication, \$100 fine for each day unless time is extended by Superintendent. (274.)

Time may be extended 20 days. (49-2.)

On the second Wednesday of January, 1916, and every 5 years thereafter, Superintendent shall publish in the Albany legal notice paper, and

In at least one daily newspaper, of each city of the first and second class within State:

A list containing names of savings banks and all other banks, etc., holding unclaimed deposits; and names of liquidated banks, etc., holding unclaimed deposits; together with full names of persons entitled to such unclaimed deposits. (46.)

PREFERENCES.

After liquidation of any bank, the Superintendent may take and hold as trustee all unclaimed deposits (45)

And shall deposit them in State banks, trust companies, or Savings Banks to the credit of the Superintendent in trust for person entitled thereto. (45.)

Such deposits shall be entitled to preference in case of the insolvency of depositary bank, as also other collections deposited by Superintendent. (45 and 70.)

INDEX KEPT BY SUPERINTENDENT AND PAYMENTS.

Superintendent shall keep an Index of all unclaimed deposits (*a*) held by him, and (*b*) of those reported to him. (47.)

To any person showing by evidence, satisfactory to Superintendent, that he is entitled to receive such money, Superintendent shall indicate bank holding same. (47.)

In case of liquidated bank, Superintendent may pay to such person unclaimed deposit and if paid in good faith be held harmless. (47.)

If in doubt as to rightful owner, or conflicting claims arise, he may require a Supreme Court order, authorizing and directing payment. (47.)

CHAPTER VII.

BOOKKEEPING AND REPORTS.

BOOKKEEPING.—TRIAL BALANCE.—ASSETS, HOW ENTERED.—
AMORTIZATION.—REPORTS: SEMI-ANNUAL.—
OTHER.—FOR FRANCHISE TAX.

BOOKKEEPING.

A Savings Bank shall keep its books, records and accounts so that its true condition may be readily ascertained by Superintendent, who has discretionary power to order books and accounts opened and accurately and conveniently kept. (56-4.)

Penalty for neglect to obey such order, \$100 fine for each day. (246-4.)

TRIAL BALANCE.

An accurate Trial Balance of depositors' ledgers shall be taken every six months. (272.)

ASSETS, HOW ENTERED.

All Assets shall be entered and carried on the books, in the name of the bank and under truly descriptive title. (246-1.)

Stocks, bonds, etc., shall not be entered at more than the actual cost and not thereafter be carried at *more than* the amortized value. (246-2.)

AMORTIZATION.

Deductions and additions to the cost shall be made for the semi-annual amortization of premiums and discounts respectively—the profit and loss account being charged and credited at dividend periods or at least once a year with amounts deducted or added in order to bring value of securities to par at maturity. (246-2.)

Real Estate shall not be carried at more than cost. (246-3.)

DIGEST OF SAVINGS BANK LAWS

SEMI-ANNUAL REPORTS.

A *Semi-Annual Report* shall be made on or before February 1st and August 1st in each year as of the morning of January 1st and July 1st respectively. (273-1.)

And shall be in the form prescribed by the Superintendent. (273-1 and 42.)

Contents of Report:

Assets:

Amount loaned on Bond and Mortgage.

List of new Bonds and Mortgages since last report, showing location of mortgaged premises.

List of Bonds and Mortgages previously reported, but paid wholly, or in part, or foreclosed, stating amounts of such payments and proceeds of foreclosures.

Stocks and Bonds, stating cost, date of purchase, date of maturity, rate, amortized value as determined according to Section 246, par value, market value as determined by prices furnished by the Superintendent, according to Section 53, on June 1st and December 1st each year.

Amounts loaned on promissory notes, stating collateral held to comply with Section 239-8.

Real Estate, giving cost to comply with Section 253-1b.

Real Estate purchased at foreclosure, stating actual cash value, as appraised by its trustees according to Section 253-1c.

Cash on hand.

Cash on deposit, giving amounts in each bank. (273-2.)

Liabilities.—Amounts due depositors, including dividend about to be credited.

All other debts and claims chargeable upon its assets. (273-2.)

Statistics.—Amount deposited and amount withdrawn during year.

BOOKKEEPING AND REPORTS

Interest received or earned.

Dividends credited to depositors and rate.

Accounts opened and accounts closed.

Number of open accounts at end of period.

And other information as Superintendent may require.
(273-2.)

Report shall also state the fact that a semi-annual Trial Balance has been taken, and the discrepancy, if any, between general ledger and depositors' individual ledgers. (272.)

Report to be verified by oath of two officers in charge of bank (273-3), and based on Semi-Annual Trustees' Committee Examination and verified by majority of the members of such committee. (272.)

OTHER REPORTS.

Special reports to be made as Superintendent directs.
(273-4.)

Superintendent shall prescribe form and contents of all reports and may prescribe form of verification. (42.)

Penalty for failure to make any report is: \$100 fine every day. (273-5.)

Superintendent may extend time to make report 20 days. (49-2.)

No other reports to be required except as provided in this Banking Law—and no inspection or interference from local boards, etc., allowed. (275.)

FRANCHISE TAX REPORT.

Franchise Tax Report shall be made on or before August 1st each year as of July 1st, stating par value surplus, and undivided earnings and such other data as State Comptroller may require. (Section 196-8 Tax Law.)

DIGEST OF SAVINGS BANK LAWS

CHAPTER VIII.

GUARANTY FUND AND UNDIVIDED PROFITS.

SURPLUS.—NET EARNINGS.—GUARANTY FUND.—UNDIVIDED PROFITS.—HOW DETERMINED.—HOW ACCUMULATED.—ADVERTISEMENTS.—INITIAL GUARANTY FUND.

Surplus means the Excess of Assets Over Liabilities. (3.)

Total Profits means total amount of undistributed net earnings from the date of organization, including such portion of guaranty fund as has been derived from net earnings or from undivided profits. (3.)

Net Earnings means excess of gross earnings over expenses and losses chargeable against such earnings during any dividend period. (3.)

GUARANTY FUND.

The Guaranty Fund is only created by a “mutual non-stock corporation” and shall consist of:

- (a) The Surplus of every savings bank at the time this act takes effect. (252.)
- (b) Amounts contributed by incorporators of a new savings bank, to the amount of at least \$5,000, and such further contributions to maintain solvency of bank. (234-2.)
- (c) Deductions made from net earnings and credited to guaranty fund, when latter is less than 10% of amount due depositors. (255.)
- (d) Other amounts which trustees deem expedient and for the security of depositors to add. (234-1 and 256-1.)

UNDIVIDED PROFITS.

Undivided Profits means credit balance of Profit and Loss Account. (3.)

GUARANTY FUND AND UNDIVIDED PROFITS

Undivided Profits may be carried to maintain the rate of dividends. (256-1 and 256-6.) Undivided Profits are potentially a part of the guaranty fund, although theoretically not so considered.

OBJECT OF GUARANTY FUND.

The Guaranty Fund shall be for the security of depositors and shall be held:

- (a) To meet losses from depreciation of securities. (3 and 252.)
- (b) To meet losses arising otherwise. (3 and 252.)
- (c) To pay dividends when guaranty fund and undivided profits amount to more than 25% of amount due depositors. (256-6.) Excess to be divided once every three years equitably. (256-6.)
- (d) To repay incorporators' contributions to expense fund when such payments shall not reduce guaranty fund below 5% of amount due depositors. (236-1.)
- (e) To repay incorporators' contributions to guaranty fund when all contributions to expense fund have been repaid and such payments do not reduce guaranty fund below 5% of amount due depositors. (236-2.)

Guaranty Fund shall not be available:

- (a) For expenses, so long as any undivided profits on hand. (3.)
- (b) For dividends (3) until it reaches 25% of amount due depositors. (234-3 and 256-6.)

GUARANTY FUND—HOW DETERMINED.

Subtract—(Total Liabilities due and accrued plus
(Undivided Profits plus
(Net Earnings since last declaration of dividend—

From ——Total Assets. (253-1.)

DIGEST OF SAVINGS BANK LAWS

Value of Assets for this calculation to be:

- (a) Stocks, bonds, etc., at estimated market value as last determined by the Superintendent (253-1a) and furnished to each savings bank on June 1st and December 1st of each year, Superintendent being governed in making such valuations by actual sales during preceding 5 months and by general business conditions. (53.)
- (b) Real Estate at not in any event above cost. (253-1b.)
- (c) Foreclosed property at not above actual cash value as determined by written appraisal signed by three trustees and filed. (253-1b.)
- (d) *Exclude:* Assets disallowed by Superintendent or trustees. (253-1c.)

Exclude unsecured debts due without prosecution for one year or upon which no interest was paid for one year. (253-1c.)

Exclude judgments unsatisfied for two years. (253-1c.)

Unless Superintendent upon application fix valuation for such assets excluded. (253-1c.)

If secured by real estate, value to be actual cash value of real estate as determined by a written appraisal signed by three trustees and filed with the bank. (253-1c.)

Guaranty Fund once determined is brought down to date

- (a) By *Adding* any appreciation in the market value of securities, resulting from their re-valuation by the Superintendent, plus
Any sums recovered or allowed on items excluded, and
- (b) *Deducting* all items disallowed plus
Depreciation below previous estimated market value, plus
All debts on which interest has not been paid for one year plus
Judgments unsatisfied for 2 years. (253-2.)

GUARANTY FUND AND UNDIVIDED PROFITS

Unless the Superintendent, upon application, shall have fixed valuation for such assets excluded and then net deficiency shall be subtracted. (253-2.)

GUARANTY FUND—HOW ACCUMULATED.

If at the close of any dividend period the guaranty fund be less than 10% of amount due depositors, deduct from net earnings for the period and credit the guaranty fund:

- 5% of net earnings during 1914
- 6% of net earnings during 1915
- 7% of net earnings during 1916
- 8% of net earnings during 1917
- 9% of net earnings during 1918
- 10% of net earnings during 1919

and 10% during any year thereafter. (255.)

In any case, however, only so much of such percentages as will not force the dividend below $3\frac{1}{2}\%$. (255.)

While trustees are paying expenses, the above percentages shall be computed on amounts credited as dividends instead of upon net earnings. (255.)

In addition to above amounts trustees may add to guaranty fund such further amounts as they may deem expedient and for the security of depositors. (256-1.)

Minimum Guaranty Fund.—Deductions from earnings shall be made until the Guaranty Fund equals 10% of amount due depositors. (256-1.)

Maximum Guaranty Fund.—Deductions shall cease when Guaranty Fund and Undivided Profits together equal 25% of amount due depositors. (256-6.)

ADVERTISEMENTS.

Advertisements of Guaranty Fund by sign or notice or advertisement or advertising literature shall not state an amount in Excess of Market Value Surplus or guaranty fund, as determined by Sections 253-1a, b, and c, and 53, unless the nature of the same be *clearly* made to appear. (258.)

DIGEST OF SAVINGS BANK LAWS

INITIAL GUARANTY FUND—INCORPORATORS' CERTIFICATES.

Initial Guaranty Fund.—Before a new savings bank shall be authorized to do business, its incorporators shall create a guaranty fund of at least \$5,000 (234-2) ; by contributions to the initial guaranty fund paid in cash. (23.)

Prior to liquidation such initial guaranty fund shall not be encroached upon, except for losses and the repayment of incorporators' unimpaired contributions thereto, until it reaches 25% of amount due depositors. (234-3.)

Incorporators' Certificates.—For such amounts savings banks may issue transferable certificates showing that they do not constitute a liability except as provided in the Banking Law. (238-2.)

Such contributions shall not constitute a liability (234-4) ; except that they may be repaid pro rata if contributions to expense fund have been repaid and such payments do not reduce guaranty fund below 5% of amount due depositors. (236-2.)

In case of liquidation any portion of contributions over and above liabilities may be repaid to contributors pro rata. (236-1 and 236-2.)

Return of Contributions heretofore made may take place in accordance with the provisions of any agreement made with the Superintendent as to such return. (237.)

CHAPTER IX.

DIVIDENDS.

GROSS EARNINGS.—NET EARNINGS.—UNDIVIDED PROFITS.—
DIVIDENDS: RATE, NOTICE, PERIOD.—RESTRICTIONS.—
EXTRA DIVIDENDS.—DAYS OF GRACE.—LIABILITY
FOR EXCESS DIVIDENDS.

GROSS EARNINGS.

Gross Earnings Include:

- (a) All earnings actually received, less interest accrued and unpaid included in previous calculation. (254-1a.)
- (b) Interest, accrued and unpaid, secured by collateral, not in default for more than one year. (254-1b.)
- (c) Interest accrued on stocks and bonds not in default. (254-1b.)
- (d) Amount of discounts amortized. (254-1c.)
- (e) Profits actually received from sale of stocks, bonds or real estate. (254-1d.)

NET EARNINGS.

To Determine Net Earnings—Deduct from Gross Earnings:

- (a) All expenses paid and incurred, both ordinary and extraordinary, less expenses, accrued and unpaid, included in previous calculation. (254-2a.)
- (b) Interest paid or accrued and unpaid on debts owing by it. (254-2b.)
- (c) Amount of premiums amortized. (254-2c.)
- (d) Losses in excess of guaranty fund and undivided profits. (254-2d.)

This will give net earnings for the period. (254-2d.)

When Guaranty Fund is less than 10% of amount due depositors, deduct 5, 6, 7, 8, 9 or 10% for years 1914 to 1919 respectively, and 10% every year thereafter from net earnings and net earnings remaining shall be available for dividends. (255.)

DIGEST OF SAVINGS BANK LAWS

Depositors shall receive as nearly as may be all the earnings remaining. (256-1.)

Undivided Profits.—Trustees may deduct from net earnings and carry as undivided profits, for the purpose of maintaining rate of dividends, such additional sums as they may deem wise. (256-1.)

DIVIDENDS: RATE, NOTICE, PERIOD.

Rate of Dividends.—Shall not exceed 5% per annum. (256-1.)

Notice posted conspicuously in banking room, of a change in rate, shall be equivalent to a personal notice. (256-6.)

Dividend Period is period from last dividend to date selected for next dividend or from organization to first dividend. (3.)

RESTRICTIONS AND EXTRA DIVIDENDS.

Restrictions.—Depositors may be divided into classes according to CHARACTER—AMOUNT—OR DURATION OF DEALINGS regulating dividends that each depositor receive same ratable portion of dividends as other members of his class. (256-2.)

Contributions to guaranty fund and expense fund by incorporators or trustees of new savings bank shall be entitled to same dividends as depositors. (256-3.)

If guaranty fund will not be reduced below 5% of amount due depositors, such amounts contributed may be refunded with *back dividends* at same rate as paid to depositors. (236-1 and 2 and 256-3.)

No dividend shall be declared, credited or paid *except*—as authorized by vote of majority of board of trustees—duly entered upon minutes, recording “Ayes” and “Nays” upon each vote. (256-4a.)

No other dividend shall be declared, etc., *except*

(a) Regular, quarterly or semi-annual dividend (256-4b), or

DIVIDENDS

- (b) *Extra* dividend when guaranty fund and undivided profits amount to more than 25% of amount due depositors, and then excess is to be divided equitably at least once every three years. (256-6.)

Days of Grace:

Ten business days commencing semi-annual period and

Three business days commencing quarterly period and

Three business days ending semi-annual or quarterly period may be declared by trustees to be days of grace and interest may be paid on deposits, lacking those days to make a full period of six or three months. (256-4c.)

Accounts closed between dividend periods may have interest credited at last dividend rate, up to date of closing, if by-laws so provide. (256-4c.)

Liability of Trustees for Excess Dividends.—Trustees voting for a dividend shall be jointly and severally liable to bank for dividends declared and credited in excess of profits earned and appearing to credit of bank since last dividend, after making deductions (256-5) as follows:

(a) For expenses (254-2a and 254-2b),

(b) For amortization (246),

(c) For guaranty fund. (255.)

The “Ayes” and “Nays” shall be recorded upon each vote on a dividend to be declared. (256-4a.)

A Trustee shall not have any interest whatever, direct or indirect, in the profits of the bank. (Constitution New York, Article VIII, Section 4.)

DIGEST OF SAVINGS BANK LAWS

CHAPTER X.

EXPENSE FUND.

INCORPORATORS' EXPENSE FUND.—AUTHORIZED PAYMENTS.—
EXPENSES OF BANKING DEPARTMENT.—FAILURE TO PAY.—
PRIORITIES.—AVAILABLE FUND.—EXPENSES DEDUCTED
FROM GROSS EARNINGS.—COMPENSATION TO TRUS-
TEES.—EMPLOYEE'S FIDELITY BONDS.—PENSIONS.
—FRANCHISE TAX.—FEDERAL INCOME TAX.

INCORPORATORS' EXPENSE FUND.

An Expense Fund shall be created by incorporators of a new savings bank, from which the expense of organizing, and all operating expenses may be paid, until earnings are sufficient to pay expenses in addition to dividends declared and credited to depositors from its earnings. (235.)

Original expense fund \$5,000 and undertaking by incorporators to further contribute to pay expenses until earnings are enough to pay expenses in addition to dividends. (235.)

All amounts contributed by incorporators to initial guaranty fund and expense fund shall not constitute a liability, but may be repaid when repayment does not reduce guaranty fund to less than 5% of amount due depositors. (234-4, 235 and 236.)

Transferable certificates may be issued for amounts so contributed by incorporators or trustees, which shall show that they are not a liability except as provided in Banking Law. (238-2.)

Contributions heretofore made to expense fund or initial guaranty fund, under agreement with Superintendent that such contributions may be repaid, whenever such return shall not affect solvency or render it unsafe to continue, may be returned in accordance with agreement. (237.)

AUTHORIZED PAYMENTS AND ASSESSMENTS.

Authorized Payments.—Only such current and necessary expenses as are *Authorized by the Board of Trustees* shall be paid by the trustees or officers. (267-2a.)

EXPENSE FUND

Expenses may not be paid out of guaranty fund, so long as any undivided profits are on hand. (3.)

Expenses shall be deducted before the dividend is declared. (256-5.)

The General Expenses of Banking Department shall be assessed by Superintendent as he deems just and reasonable, against all savings banks and other corporations. (17.)

All expenses incurred and services performed on account of individual savings bank shall be charged to and paid by bank benefited. (17.)

The amount assessed by Superintendent shall become a liability of savings bank as soon as bank is duly notified thereof. (277.)

For Failure to Pay after due Notice

(a) Any assessment for expenses of banking department, or

(b) Any penalty or forfeiture incurred under the Banking Law—Superintendent, through attorney-general, shall institute proceedings as warranted by the facts. (31.)

Priorities.—All unpaid Assessments, Penalties and Forfeitures are *Entitled to Priority* in case of voluntary or involuntary liquidation or insolvency of bank. (32.)

AVAILABLE FUND.—EXPENSES: HOW PAID.

An Available Fund, not to exceed 20% of deposits, composed of cash on hand and cash on deposit, may be kept for purpose of paying withdrawals in excess of receipts and meeting current expenses. (251.)

Expenses deducted from Gross Earnings.—All expenses paid or incurred, both ordinary and extraordinary, in the transaction of its business, the collection of its debts and the management of its affairs shall be *Deducted from the Gross Earnings* before apportioning net earnings to the guaranty fund and to dividends. (254-2a.)

Losses of all kinds sustained, are charged against the Guaranty Fund. (252 and 234-3.)

Dividends against the net earnings and undivided profits. (255 and 256-1, and 256-6.)

DIGEST OF SAVINGS BANK LAWS

COMPENSATION OF TRUSTEES.

Compensation to Trustees.—Expense Fund may be charged with Compensation to Trustees who serve:

- (a) As officers, and are required to regularly attend at the bank (265-2), or
- (b) On Semi-Annual Examining Committees (272), or
- (c) To investigate Loans on Bond and Mortgage (239-6), or
- (d) To submit monthly or regular statement of Investments (264-3), or
- (e) Act on special Committees provided for in the By-laws. (265-2.)
- (f) Attorney, although a trustee, may be paid reasonable compensation for his services. (265-3.)

All these may receive compensation from Expense Fund as majority of board thinks just and reasonable (265-2), but such majority shall be exclusive of trustee to whom any compensation is voted. (265-2.)

Premiums on Fidelity Bonds of officers, clerks or other employees may be paid as a necessary expense. (270.)

PENSIONS TO EMPLOYEES

Pensions.—Trustees shall have discretionary power: To retire officers, clerks and other employees:

- (a) Who have served 30 years or more,
- (b) Who have served 20 years or more, and are physically or mentally incapacitated and
- (c) Who have served 20 years or more and have attained the age of 60 years (271); And

To pay in equal monthly instalments, not exceeding 2% of average annual salary for three years immediately preceding retirement, for each year of service in the bank.

Maximum annual amount shall not exceed 60% of average annual salary. (271.)

EXPENSE FUND

Table of Pensions.

After 20 years of service	40%	of average annual salary for last 3 years of service
After 21 years of service	42%	thereof
After 22 years of service	44%	thereof
After 23 years of service	46%	thereof
After 24 years of service	48%	thereof
After 25 years of service	50%	thereof
After 26 years of service	52%	thereof
After 27 years of service	54%	thereof
After 28 years of service	56%	thereof
After 29 years of service	58%	thereof
After 30 years of service	60%	thereof—the maximum. (271.)

FRANCHISE TAX—REPORTS—PENALTIES—EXEMPTIONS.

Franchise Tax.—Every savings bank shall pay to the state annually for privilege of exercising its corporate franchise or carrying on its business—an annual tax equal to one per cent. of par value of its surplus and undivided earnings. (Section 189 of Tax Law of New York State, being Chapter 62 of Laws of 1909.)

Par Value Surplus determined by estimating stocks and bonds at par if selling above par, at market value if selling below par—Real Estate not above cost. (257.)

Stocks and Bonds, in arrears for 6 months' interest, at valuation placed thereon by Superintendent *from best information obtainable*. (54 and 257.)

All Savings Banks paying a Franchise Tax are exempt from assessment and taxation upon personal property for state purposes. (Section 205 Tax Law.)

Franchise Tax Reports.—Every Savings Bank liable to pay a tax under Section 189 Tax Law shall on August 1st each year report as of July 1st, stating par value surplus and undivided earnings and other data required by State Comptroller. (Section 196-8 Tax Law.)

DIGEST OF SAVINGS BANK LAWS

Franchise Tax payable September 1st each year. (Section 197 Tax Law.)

Penalty 5% of Tax in addition if not paid within 30 days—1% additional for each month while it remains unpaid. For failure to report, same penalty. (Section 197, Tax Law.)

Tax Exempt State Bonds.—A SAVINGS BANK owning 3% Bonds of the State of New York which are registered in its own name on June 30th, prior to the date on which tax is payable, shall have credited to it 1% of *Par Value* of such Bonds, to be applied upon the payment of Franchise Tax for that year.

In no case shall there be credited more than there is tax due. (Tax Law 190, being Chapter 794, Laws of 1913.)

Savings Banks Exempt from Federal Income Tax.—Section 11 of the United States Tariff Act of 1913 relates to tax on incomes derived from all sources, but exempts the earnings of Savings Banks as follows:

“That nothing in this section shall apply to mutual savings banks not having a capital stock represented by shares.” (United States Tariff Act, 1913, Section 11, Subdivision Ga.)

CHAPTER XI.

BOARD OF TRUSTEES.

NUMBER.—VACANCIES.—QUALIFICATIONS.—OATH AND DECLARATION.—REMOVAL FROM OFFICE.—PROCEDURE.—FORFEITURES OF OFFICE.—EXCEPTIONS.—RE-ELECTION.—BY-LAWS, RULES AND REGULATIONS.—OFFICERS.—MEETINGS.—QUORUM.—INVESTMENTS.—COMPENSATION. ATTORNEYS.—OTHER RESTRICTIONS.—LIABILITY FOR ACTS AND EXCESS DIVIDENDS.—COMMISSIONS.—SEMI-ANNUAL COMMITTEE.—COMMUNICATIONS FROM BANKING DEPARTMENT.—EXAMINATIONS BY BANKING DEPARTMENT.

The Board of Trustees shall consist of not less than nine nor more than thirty members. (260.)

Vacancies shall be filled as soon as practicable at a regular meeting. (269.)

Where now more than 30 trustees—vacancies shall not be filled until reduced to 30. (266-3.)

By resolution, incorporated in its By-laws, number may be increased not to exceed 30, provided Superintendent gives his written consent for reasons satisfactory to himself. (266-1.)

Reduction of number to not more than 30 or less than 9 may be effected by not filling vacancies until number designated in resolution is reached. (266-2.)

The Incorporators shall be the first trustees. (260-1.)

QUALIFICATIONS AND REMOVAL FROM OFFICE.

The following shall be disqualified to act as trustees of Savings Banks:

(a) *Non-residents* of this state—

Provided one-fifth of any New York City Savings Bank's Trustees may be residents of states adjoining New York City. (260-2a.)

(b) Those adjudicated bankrupts, or

Those having taken benefit of any insolvency law,
or

DIGEST OF SAVINGS BANK LAWS

Those having made an assignment for benefit of creditors. (260-2b.)

- (c) Those having suffered a judgment for money
To remain unsatisfied of record
Or unsecured on appeal—for more than 3 months.
(260-2c.)
- (d) Trustees, officers or any employees of other savings banks. (260-2d.)
- (e) And a person shall not be a trustee solely by reason of his holding a public office. (260-3.)

Removal from Office.—A Trustee may be removed from office, on charges:

- (a) That his conduct and habits are of such a character as to be injurious to the bank, or
- (b) That he has been guilty of acts that are detrimental or hostile to the interests of the bank.
(268-1.)

Procedure in Removal of Trustee.

- (a) Serve a written copy of the charges upon Trustee at least two weeks before the meeting at which he is to be tried;
- (b) Record “Ayes” and “Nays” of the vote in the minutes;
- (c) The affirmative vote of three-fourths of the total number of Trustees is necessary to remove;
- (d) Such removal shall receive the written approval of the Superintendent, which shall be attached to the minutes and form a part of the record. (268-1.)

FORFEITURE OF OFFICE.—EXCEPTIONS.—RE-ELECTIONS.

Forfeiture of Office.—The office of a trustee shall immediately become vacant whenever he

- (a) Shall become disqualified for any of the reasons mentioned in Section 260, subdivision 2, viz., non-residence, bankruptcy or insolvency, being judgment debtor or becoming trustee or employee of another savings bank. (268-2b.)

BOARD OF TRUSTEES

- (b) Shall fail, when notified of his election, to take an *oath*:
 - To diligently and honestly administer affairs of the bank, and
 - Not to knowingly violate, nor willingly permit to be violated, any provisions of the savings bank laws. (268-2a and 261-1.)
- (c) Shall not prior to March 1st each year subscribe *declaration* that he is a trustee and has not resigned, become ineligible or vacated his office as such trustee—such declaration to be acknowledged and filed prior to March 10. (268-2a and 261-2.)
- (d) Unless excused, shall have failed for six successive months:
 - To attend regular meetings, or
 - To perform any of his duties as trustee. (268-2c.)
- (e) Shall have any interest, direct or indirect in the gains or profits of the savings bank (New York Constitution, Article VIII, Section 4, and 267-1a), except to receive dividends upon his incorporators unimpaired contributions to the guaranty fund and expense fund. (256-3.)
- (f) Shall become a member of the board of directors of a bank, trust company or national bank, of which board enough other trustees of such savings bank are members to constitute with him a majority. (267-1b and 268-2d.)
- (g) Shall directly or indirectly use any of the funds of the savings bank for himself or as agent or partner of another, except to make necessary payments as authorized by Trustees. (New York Constitution, Article VIII, Section 4, and 267-2a and 268-2d.)
- (h) Shall directly or indirectly receive and retain for his own use
 - Any commission on any loan made by the bank,
 - or

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Any compensation for services rendered to any borrower of the bank (267-2*b* and 268-2*d*); *excepting*

A trustee, however, acting as attorney for the bank, may receive reasonable compensation for his professional services. (265.)

- (*i*) Shall become an indorser, surety or guarantor, or in any manner an obligor for any loan made by the bank. (267-2*d* and 268-2*d*.)
- (*j*) Shall directly or indirectly, for himself or as agent or partner of another, borrow any funds or deposits of the bank. (267-2*e* and 268-2*d*.)
- (*k*) Shall become owner of any real property upon which the bank holds a mortgage. (267-2*e* and 268-2*d*.)

Loan to or purchase by a corporation of which he holds 15% of stock or he and other trustees together hold 25%, shall come under this restriction, *except* loan to or purchase by such corporation occurred without his knowledge or against his protest. (267-2*e*.)

Deposits in a bank or trust company not deemed a loan within meaning of this Section. (267-2*e*.)

But this restriction does not prohibit loans to a religious corporation, club or membership corporation in which trustees though members or officers, have no financial interest. (267-2*e*.)

However loan to or purchases of guaranteed mortgages from stock corporations are included, if a trustee of savings bank holds 15% of stock or two or more trustees hold 25% of stock. (267-2*e*.)

Exceptions.—A trustee shall not be held to have forfeited his office if *before* this chapter takes effect:

- (*a*) A loan was made by the savings bank to a corporation of which he was a member or stockholder. (268-2*d*.)

BOARD OF TRUSTEES

- (b) A purchase was made of any guaranteed mortgage by the savings bank from a corporation, of which he was a member or stockholder. (268-2*d*.)
- (c) A purchase was made of any real estate, subject to a mortgage held by the savings bank, by a corporation of which he was a member or stockholder. (268-2*d*.)

Re-Election.—A trustee who has forfeited his office shall not be eligible to re-election (268-3), *except* forfeiture occurred solely by one or more of the following reasons or disqualifications and all disqualifications shall have been removed, viz.,

- (a) Failure to file oath and make yearly declaration. (261-1, 261-2 and 268-3*a*.)
- (b) Failure to attend meetings or perform duties. (268-2*c* and 268-3*b*.)
- (c) Disqualification through becoming non-resident. (268-3*c*.)
- (d) Disqualification through becoming trustee or employee of another savings bank. (268-3*c*.)
- (e) Disqualification through becoming director of bank, etc., and thus making a majority of savings bank trustees on the board. (267-1*b* and 268-3*c*.)

BY-LAWS.—POWERS.—MEETINGS.—INVESTMENTS.

By-Laws, Rules and Regulations not inconsistent with law, may be made by the board of trustees for the following:

- (a) Election of officers and prescribing their powers and duties and manner of discharging the same. (262.)
- (b) Appointment of committees and their duties. (262.)
- (c) Increase or reduction of number of trustees. (266.)
- (d) Payment of deposits subject to Sections 248 and 249.
- (e) And generally for transacting, managing and directing affairs of savings bank. (262.)

Trustees may limit aggregate amount which may be received from one depositor. (247-3.)

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May refuse to receive a deposit. (247-3.)

And may return all or any part of a deposit. (247-3.)

Copy of By-laws and all Amendments shall be transmitted to Superintendent. (262.)

Officers elected by the board of trustees from their number or otherwise shall be a President, two Vice-Presidents and such other officers as they may deem fit. (263.)

Regular Meetings of board of trustees shall be held at least once a month. (264-1.)

A Quorum at any regular or special or adjourned meeting shall be not less than five, of whom President shall be one, except when he is prevented from attending by sickness or other unavoidable detention, when First Vice-President takes his place, when he also is absent Second Vice-President acts. (264-2.)

Less than a quorum shall have power to adjourn from time to time until next regular meeting. (264-2.)

Investments.—*A written statement of investments* shall be prepared by officer or officers designated by resolution duly recorded in the minutes, containing:

- (a) The description of stocks and bonds purchased or sold,
- (b) A list of loans on bond and mortgage, and
- (c) A list of loans on demand promissory notes;

Describing collateral as of the date of meeting, and including all items over \$1,000, and

Giving aggregate of loans to each individual, partnership, unincorporated association or corporation, whose liability has been increased \$1,000 or more since last regular meeting. (264-3.)

Officer or officers charged with duty shall submit written statement either

- (a) To each trustee at each regular meeting of the board, or
- (b) To an executive committee of not less than five members of the board. (264-3.)

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Failure to Report is a Misdemeanor.—Any officer or employee of a Savings Bank who

- (a) intentionally conceals from trustees any loans made between regular meetings or any purchase of securities, or sale of any securities, or
- (b) knowingly fails to report to its Board of Trustees, when required to do so by law, all loans and all purchases and sales of securities between regular meetings, is guilty of a Misdemeanor. (Penal Law, Section 290.)

Nothing in this Section shall render any loan made in violation thereof invalid. (Penal Law, Section 290.)

Copy of statement together with list of the trustees present at meeting, verified by an affidavit of the officer or officers charged with duty of preparing and submitting statement, shall be filed with the records of bank within one day after the meeting. (264-3.)

Committee of Trustees shall investigate and certify value of all loans on bond and mortgage; report to be filed and preserved among records of bank; without it no such loans shall be made. (239-6.)

Foreclosed Properties acquired by Bank shall have actual cash value determined by a written appraisal, signed by at least three trustees and filed—such value to be used in estimating amount of guaranty fund. (253-1b.)

Trustees shall invest as soon as practicable all moneys deposited in nine classes of property described in Section 239, but they may keep on hand and on deposit 20% of amount due depositors, for paying withdrawals and current expenses. (251.)

COMPENSATION.—RESTRICTIONS.—LIABILITIES.

Compensation shall not be paid directly or indirectly to any trustee

- (a) For his attendance at meetings of the board,
 - (b) Or for any other services as trustee (265-1);
- except*

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- (a) Trustees acting as officers,
Whose duties require and receive their regular and faithful attendance at the bank. (265-2.)
- (b) Trustees appointed to examine vouchers and assets semi-annually. (272 and 265-2.)
- (c) Trustees appointed to investigate loans on Bond and Mortgage. (239-6 and 265-2.)
- (d) Trustees designated to prepare and submit *written statement of investments* (264-3 and 265-2), and
- (e) Trustees rendering other special services as members of committees provided for in the By-laws. (265-2.)

All these may receive compensation as majority of board thinks just and reasonable (265-2) ; but such majority shall be exclusive of any trustee to whom compensation is voted. (265-2.)

Attorneys for the bank, although trustees, may receive reasonable compensation for professional services, including examinations and certifications of titles. (265-3.)

A savings bank may require borrowers to pay all expenses of searches, etc., and attorney although a trustee may collect and retain for his own use usual fees for such services—excepting commissions as broker or on account of placing or accepting the loan. (265-3.)

In addition to restrictions for the violation of which forfeiture of office is the penalty—there shall be the following:

Restrictions on Officers and Trustees: A trustee or officer shall not direct or require

- (a) A mortgage to negotiate *Fire Insurance Policies* through any particular insurance broker (267-2c)
- (b) Or attempt to divert to any particular insurance broker the patronage of borrowers of the bank on mortgage (267-2c.) or
- (c) Refuse to accept any insurance policy because it was not negotiated through a particular insurance broker. (267-2c.)

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Any Commissions received by an officer or attorney of a savings bank on any loan made by it, and not authorized by Section 265, to be retained for his own use or as reasonable compensation for professional services, shall immediately be paid over to the Bank. (265-4.)

Liability for Acts and Excess Dividends.—For violation of official duties, trustees or officers are liable and may be sued by Superintendent within six years after cause of action has accrued. (81.)

Trustees voting for dividend in excess of profits earned shall be jointly and severally liable for excess. (256-5.)

Trustees not liable for investing in the duly issued bonds appearing on the last list of investments legal for savings banks issued by Superintendent, unless notified to contrary. (239-9c and 52.)

Any officer or trustee making unauthorized investments of the bank's funds, is guilty of a misdemeanor. (Penal 296.)

EXAMINATIONS.—SUPERVISION.

A Semi-Annual Committee of not less than three trustees shall thoroughly examine books, vouchers and assets and affairs generally on or before January 1st and July 1st each year. (272.)

Reports to Superintendent are based on these examinations and verified by oath of majority of committee examining. (272.)

Trustees may require such examination at such other times as they shall prescribe. (272.)

Trial Balance of Depositors' ledgers shall be taken semi-annually and discrepancies reported. (272.)

Communications from Banking Department directed by Superintendent of banks or one of his deputies

To a savings bank or an officer thereof

Relating to an investigation or examination conducted by the banking department,

Or containing suggestions or recommendations as to conduct of the business—

DIGEST OF SAVINGS BANK LAWS

Shall be submitted by officer receiving it, to the board at next meeting,

And duly noted in the minutes. (276.)

Examination by Banking Department at least once in each year by personal visit of Superintendent, or deputies or examiners. (39.)

Inquiry shall then be made as to

- (a) Condition and resources of bank.
- (b) Mode of conducting and managing its affairs.
- (c) Actions of its trustees.
- (d) Investment of its funds.
- (e) Safety and prudence of its management.
- (f) Security afforded those by whom its engagements are held.
- (g) Whether the requirements of its charter and of law have been complied with in the administration of its affairs.
- (h) Such other matters as Superintendent may prescribe. (39.)

Superintendent may make special investigations as he may deem necessary to determine whether savings bank violated any provisions of banking law. (39.)

Superintendent or his examiners shall have power to put under oath and compel attendance of any person, whose testimony may be required at such examinations. (39.)

The result of examination shall be certified on records of the Savings Bank. (40.)

Examiner's Reports shall be made under oath and shall be confidential and shall not be made public unless Superintendent judges ends of justice or public advantage will be subserved—when he may publish report or any part thereof in one daily newspaper of New York City and in one newspaper of county in which bank is located, or in any other manner he may deem proper. (41.)

The Penal Law Provisions Governing Savings Banks, Trustees, Officers and Clerks are contained in Chapter XIV. See page 74.

CHAPTER XII.

NEW SAVINGS BANKS AND MERGERS.

CONDITIONS PRECEDENT.—NOTICE OF INTENTION TO ORGANIZE.—ORGANIZATION CERTIFICATE.—SUPERINTENDENT'S DISCRETIONARY POWERS.—AUTHORIZATION CERTIFICATE.—INITIAL GUARANTY FUND.—INITIAL EXPENSE FUND.—FORFEITURE BY NON-USER.—MERGERS.

CONSTITUTIONAL LIMITATIONS.

The Legislature shall have *no* power to pass any Act granting any special charter for savings bank purposes. (Constitution New York, Article VIII, Section 4.)

A Savings Bank may be formed for savings bank purposes under general laws. (Constitution New York, Article VIII, Section 4.)

NOTICE OF INTENTION.—ORGANIZATION CERTIFICATE.

Conditions Precedent.—The proposed incorporators shall be not less than 9 or more than 30—must be citizens of United States (230)— $\frac{4}{5}$ of them residents of the state and $\frac{2}{3}$ residents of the county. (230.)

A Notice of Intention to Organize a savings bank shall be signed by all the incorporators, specifying:

- (a) Names of all the incorporators;
- (b) The name of proposed savings bank;
- (c) The location thereof as set forth in the organization certificate. (231.)

Original of intention shall be filed in the office of Superintendent within 60 days after execution. (231.)

Copy of intention shall be published once a week for four successive weeks in a newspaper designated by the Superintendent (231) in village, borough, or city where business of new savings bank is to be transacted (20)—or in county or in adjoining county if no papers are published in other places. (20.)

DIGEST OF SAVINGS BANK LAWS

Publication to be commenced within 30 days after paper is designated by Superintendent. (231.)

At least fifteen days before organization certificate is submitted to the Superintendent for examination—a copy of intention to organize shall be mailed to each savings bank in the same village, borough or city. (231.)

Organization Certificate in duplicate shall be subscribed and acknowledged at the time the notice of intention to organize a savings bank is signed (231)

And shall specifically state:

- (a) Name by which savings bank is to be known. (230-1.)
- (b) Place where business is to be transacted. (230-2.)
- (c) Name, occupation, residence, and post office address of each incorporator. (230-3.)
- (d) Sums which each incorporator will contribute in cash to the initial guaranty fund (230-4), total of which must be \$5,000. (234-2.)
- (e) Sums which each incorporator will contribute in cash to expense fund (230-4), total of which must be \$5,000. (235.)
- (f) A declaration that each incorporator will accept the responsibilities and faithfully discharge duties of trustee, and is free from all disqualifications specified in Section 260, viz., non-residence, bankruptcy or insolvency, being judgment debtor or a trustee or an employee of another savings bank. (230-5.)

After 28 days from date of first due publication of notice of intention to organize and within 10 days after the date of the last publication, the organization certificate executed in duplicate shall be submitted for examination to the Superintendent with affidavits of due publication, and of service of notice of intention upon each savings bank in the same village, borough or city. (231 and 232.)

Superintendent shall refuse to file defective certificates and documents not in conformity with this banking law and

NEW SAVINGS BANKS AND MERGERS

shall forthwith return such papers to incorporators, calling attention to defects—refusing to file them until remedied. (21.)

If certificate complies with banking law, Superintendent shall endorse duplicates over his official signature marking thereon, "filed for examination." (22 and 82-1.)

Superintendent's Discretionary Powers.—Superintendent shall ascertain

- (a) whether character, responsibility and general fitness of incorporators are such, as to command confidence and warrant belief that the affairs of new savings bank will be honestly and efficiently conducted, in accordance with intent of banking laws;
- (b) whether public convenience and advantage promoted;
- (c) greater convenience of access to a savings bank afforded to any considerable number of depositors;
- (d) whether density of population affords reasonable promise of adequate support for the proposed savings bank. (23.)

INITIAL GUARANTY FUND AND EXPENSE FUND.

Superintendent shall ascertain whether the initial guaranty fund and the expense fund have been paid in cash. (23.)

If Superintendent is satisfied that it is expedient and desirable to permit savings bank to engage in business, he shall within 60 days after date of filing certificate for examination endorse duplicates "approved." (23.)

If not satisfied "refused" and return one of the duplicates. In case of approval he shall notify incorporators and file one certificate in his office and the other with the clerk of the county in which is located such new savings bank. (23 and 82-3.)

When organization certificate is approved by Superintendent, corporate existence begins and incorporators shall complete organization, but transact *no* other business. (233.)

DIGEST OF SAVINGS BANK LAWS

Incorporators shall then deposit initial guaranty fund, \$5,000 (234), and expense fund, \$5,000 (235), and

Undertaking secured by surety bond to maintain solvency of bank and pay all expenses if Superintendent shall require such undertaking and bond. (233-1 and -2, and 234-1 and -2.)

The name, residence and post-office address of each officer shall be transmitted to Superintendent. (233-3.)

Authorization Certificate.—If Superintendent is satisfied that savings bank has in good faith complied with all the requirements of law and fulfilled all conditions precedent to commencing business, he shall, within six months after date of organization certificate was filed for examination—but not later—issue, in triplicate, authorization certificate. (24 and 82-2.)

Authorization certificate shall state that the savings bank has complied with the provisions of banking law and all requirements of law, is authorized to transact business specified and such business can safely be intrusted to it. (24.)

The Superintendent shall transmit

- (a) One certificate to savings bank newly organized. (24.)
- (b) One certificate to county clerk to be attached to certificate of organization filed in his office. (24.)
- (c) One certificate to Superintendent's office to be attached to certificate of organization filed there. (24.)

As soon as authorization certificate received, savings bank may transact all business for which organized. (233-4.)

Forfeiture of corporate existence by non-user.—If business is not begun within six months after date on which authorization certificate is issued, corporate existence of new savings bank shall cease. (485.)

Superintendent, for satisfactory causes shown, may extend the time for not more than one year. (49-1.)

Extension to be signed by him in triplicate and filed in same places as authorization certificates. (49-1.)

NEW SAVINGS BANKS AND MERGERS

PROCEDURE AND EFFECT OF MERGERS.

Mergers.—Any two savings banks, located in same city of first class, and in same county or borough, *or* any two or more located elsewhere in same or adjoining counties are authorized to merge. (487-2.)

A written agreement to merge may be made by a vote of $\frac{2}{3}$ of all members of each board of trustees in the merger. (488.)

A sworn copy of proceedings made by secretaries shall be presumptive evidence of holding such meetings. (488 and 490.)

Agreement to merge shall specify:

- (a) Each corporation to be merged. (488.)
- (b) The one which is to receive into itself the other or others. (488.)
- (c) The terms and conditions of the merger. (488.)
- (d) The mode of carrying it into effect. (488.)
- (e) The name to be borne by corporation receiving the other one. (488.)
- (f) The names of the persons constituting the new board of trustees, whose qualifications shall comply with savings bank law. (488.)
- (g) Sworn copies in duplicate of proceedings of meetings authorizing agreement, the merger agreement being submitted to Superintendent for approval. (489.)

Sixty days after notice of approval by Superintendent question is to be submitted to a special meeting of each board of trustees. (491.)

Fifteen days notice of time, place and object of meeting shall be given to each trustee, together with a complete copy of merger agreement. (491.)

When three-quarters of all the members of each board approve of the agreement—previously approved by Superintendent—it becomes binding upon such savings banks. (491.)

DIGEST OF SAVINGS BANK LAWS

As soon as binding upon parties in interest, there shall be filed with Superintendent

- (a) One of duplicate merger agreements,
- (b) Copy of Superintendent's approval,
- (c) Sworn copy of minutes of meeting at which approved (492),
and another copy of all the same papers with county clerk of county wherein savings bank is located. (492.)

Upon filing the above papers in both places, merger agreement shall take effect. (493 and 82-12.)

The Effect of the merger is

- (a) To vest in bank absorbing the other all the right, title and interest in property of merged bank. (494-1.)
- (b) However, the rights, obligations and relations of merged bank to its customers, etc., shall remain unimpaired. (494-2.)
- (c) Actions or proceedings pending shall be carried on to final judgment. (494-3.)

CHAPTER XIII.

PENAL LAW: DEFINITIONS AND GENERAL PROVISIONS.

DEFINITIONS: CRIME, FELONY, MISDEMEANOR, PRINCIPAL,
ACCESSORY, ATTEMPT TO COMMIT A CRIME.

CONSTRUCTION OF TERMS: NEGLECT, CORRUPT, MALICE,
KNOWINGLY, SIGNATURE, WRITING.

CONVICTIONS.—CONSPIRACY.—PENALTIES AND PUNISHMENTS.
—FORGERY.—LARCENY.—PERJURY.—FRAUDS AND
CHEATS.—WAIVER OF IMMUNITY BY WITNESS.

NOTE.—All References contained in Chapters XIII and
XIV are to the Penal Law, being Chapter 40 of the Consoli-
dated Laws of the State of New York.

THE PENAL LAW, being Chapter 40 of the Consolidated
Laws of the State of New York

- (a) specifies the classes of persons deemed capable of
crimes, and liable to punishment therefor;
- (b) defines the nature of the various crimes, and
- (c) prescribes the kind and measure of punishment for
each. (Penal 20.)

DEFINITIONS:

A Crime is an act or omission forbidden by law, and
punishable upon conviction by:

- (a) Death, or
- (b) Imprisonment, or
- (c) Fine, or
- (d) Removal from office, or
- (e) Disqualification to hold any office of trust, honor
or profit under the State, or
- (f) other penal discipline. (Penal 2.)

Every Crime is either a felony or a misdemeanor.
(Penal 2.)

DIGEST OF SAVINGS BANK LAWS

A Felony is a crime punishable by death or "State's Prison." (Penal 2.)

A Misdemeanor is any other crime (Penal 2) *where no penalty* is imposed for the violation of a statute which prohibits any act—the doing such act is a misdemeanor. (Penal 29.)

Omission to Perform Act—not punishable, if act is performed by another acting in the other's behalf and competent by law to perform act. (Penal 35.)

A Principal is a person who

- (a) directly commits the act constituting the crime, or
- (b) aids and abets in its commission whether present or absent, or
- (c) directly or indirectly counsels, commands, induces or procures another to commit a crime. (Penal 2.)

An Accessory is a person who, *after* the commission of a felony conceals or aids the offender, with intent that he may escape, having knowledge or reasonable ground to believe that such offender is liable to arrest, is indicted or convicted, or has committed a felony. (Penal 2.)

Principal and Accessory.—A party to a crime is either a Principal or an Accessory. (Penal 26.)

In Misdemeanors.—All parties participating in the commission of the crime are principals. (Penal 27.)

Attempt to Commit a Crime, is an act done with intent to commit a crime, and tending but failing to effect its commission. (Penal 2.)

CONSTRUCTION OF TERMS.

Neglect, Negligence, Negligently.—Each imports a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns. (Penal 3-1.)

Corrupt, Corruptly.—Each imports a wrongful desire to acquire or cause some pecuniary or other advantage to, or by the person guilty of the act or omission or some other person. (Penal 3-2.)

PENAL LAW: DEFINITIONS AND GENERAL PROVISIONS

Malice: Maliciously.—Each imports an evil intent, or wish, or design to vex, annoy or injure another person. (Penal 3-3.)

Knowingly.—Imports a knowledge that the facts exist which constitute the act or omission a crime, and does not require knowledge of the unlawfulness of the act or omission. (Penal 3-4.)

Signature.—Includes any memorandum, mark or sign written with intent to authenticate any instrument or writing or the subscription of any person thereto. (Penal 3-7.)

“Writing.”—Includes both printing and writing. (Penal 3-8.)

CONVICTIONS.

Conviction must precede punishment. (Penal 31.)

Conviction or acquittal bars another indictment or trial for same crime in another degree. (Penal 32.)

Jury must find degree of a crime whenever the crime is distinguished into degrees. (Penal 30.)

Morbid Criminal Propensity, no defense—unless person is shown to have been incapable of knowing the wrongfulness of the act. (Penal 34.)

CONSPIRACY.

If two or more persons conspire to commit a crime, each of them is guilty of a misdemeanor. (Penal 580.)

Overt Act Necessary in addition to conspiring, except in agreement to commit felony upon person of another, or to commit arson or burglary. (Penal 583.)

PENALTIES AND PUNISHMENTS.

Punishment of felonies, when not fixed by statute, is seven years' imprisonment, or by a fine of \$1,000, or by both. (Penal 1935.)

Punishments of misdemeanors, when not fixed by statute, is one year penitentiary or county jail, or \$500 fine, or by both. (Penal 1937.)

DIGEST OF SAVINGS BANK LAWS

An act or omission made criminal and punishable in different ways, by different provisions of law; may be punished under one of them, but not under more than one; acquittal or conviction under one bars further prosecution for the same act or omission. (Penal 1938.)

Limit of Fine.—Where statute does not specify, amount is \$500. (Penal 36.)

Penalty for Acts for which no punishment is expressly prescribed, as where a person

- (a) wrongfully commits an act which seriously injures the person or property of another, or
- (b) seriously disturbs public peace or health, or
- (c) openly outrages public decency, and for which no other punishment is expressly prescribed is guilty of a misdemeanor. (Penal 43.)

Punishment for Attempt to Commit a Crime is

- (a) If punishment is death or life imprisonment, 25 years.
- (b) In any other case one-half of the longest term of imprisonment, or one-half of the largest sum prescribed as a fine, or by both. (Penal 261.)

FORGERY.

Terms “forge,” “forged” and “forging” includes:

- (a) The false making, counterfeiting and alteration, erasure and obliteration of a genuine instrument, in whole or in part;
- (b) The false making or counterfeiting of the signature of a party or witness, and
- (c) The placing or connecting together with intent to defraud, different parts of several genuine instruments. (Penal 880.)

A Written Instrument may be partly printed and partly written, wholly printed with a written signature, or a signature or writing intended to bind a person or persons or a corporation or an association. (Penal 880.)

PENAL LAW: DEFINITIONS AND GENERAL PROVISIONS

The uttering, or offering as true a forged written instrument, knowing the same to be forged, and with intent to defraud is forgery in the same degree as if the person uttering document had forged the same. (Penal 881.)

Forgery in First Degree.—A person who, with intent to defraud, forges an indorsement or other writing, transferring or purporting to transfer the right or interest of any holder of property, is guilty of forgery in the first degree. (Penal 884.)

Punishment for forgery in the first degree is 20 years' imprisonment. (Penal 886.)

Forgery in Second Degree.—A person who, with intent to defraud, forges:

- (a) an entry made in any book of records or accounts kept by a corporation doing business within the State, or
- (b) an entry made in any account kept by such a corporation, whereby any pecuniary obligation, claim, etc., is or purports to be created, increased, diminished, discharged or in any manner affected, or
- (c) an instrument being, or purporting to be the act of another by which a pecuniary demand, or any right, or any property is or purports to be or to have been created, increased, discharged or diminished, or in any manner affected (and not coming within forgery in the first degree) by which a person may be bound, or in any way injured in his person or property, or
- (d) makes plates of bank checks, etc., or other evidences of debt issued by a bank or banker, or has in his possession such a plate, or an impression from such a plate, provided forged instruments resemble and conform to genuine instrument, is guilty of Forgery in Second Degree. (Penal 887.)

Punishment for Forgery in Second Degree is 10 years. (Penal 888.)

DIGEST OF SAVINGS BANK LAWS

Forgery in Third Degree.—A person who,

- (a) being an officer or employee of a savings bank (or any person or corporation), falsifies or unlawfully and corruptly alters, erases, or destroys any accounts, records, etc., belonging to his employer, or
- (b) with intent to defraud forges or aids in or connives at or be a party to the forging a letter, telegram, etc., by which forgery any other person shall be injured in his good name, standing, position or reputation, or
- (c) shall alter or connive at or be a party to the uttering of any letter, telegram, etc., purporting to have been written and signed by another person and person uttering knows it to be false and by which sentiments, interests or rights of such other person shall be misrepresented
- (d) with intent to defraud or conceal any larceny or misappropriation alters, erases, obliterates or destroys an account book, etc., or makes a false entry in such account book, etc., or wilfully omits true entry of any material particular in any account book, etc., made, written or kept by him or under his direction is guilty of forgery in the third degree. (Penal 889, being Chapter 342, Laws of 1912, in effect September 1st, 1912.)

Not Applicable to Clerks, Bookkeepers or Employees altering, obliterating account, etc., or omissions of entries, etc., even if made with intent to defraud creditors or conceal crime, shall be forgery in Third Degree, but this provision shall not apply to any clerk, bookkeeper or other employee who, without personal profit or gain, merely executes the orders of his employer. (Penal 889, being Chapter 342, Laws of 1912, in effect September 1st, 1912.)

Punishment for Forgery in Third Degree is 5 years.
(Penal 893.)

LARCENY.

A person who, with intent to deprive or defraud true owner, appropriates to his own use or that of any person

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other than the true owner any money or article of value, steals such property, and is guilty of Larceny. (Penal 1290.)

Obtaining money or property by fraudulent draft is larceny, and punishable accordingly. (Penal 1293.)

Grand Larceny in First Degree consists of

- (a) stealing property of any value from the person of another in the night time (Penal 1294-1), or
- (b) stealing property valued at \$25.00 in the night time from any dwelling house (Penal 1294-2), or
- (c) stealing property valued at more than \$500 in any manner whatever. (Penal 1294-3.)

Punishment for Grand Larceny in the First Degree is imprisonment for not exceeding 10 years. (Penal 1295.)

Grand Larceny in Second Degree consists of stealing property under circumstances not amounting to Grand Larceny in the first degree, as follows:

- (a) stealing property valued at more than \$25.00 but not exceeding \$500 in any manner whatever (Penal 1296-1), or
- (b) stealing property of any value from person of another (Penal 1296-2), or
- (c) stealing a court record in the keeping of a public office or officer. (Penal 1296-3.)

Punishment for Grand Larceny in Second Degree is imprisonment for not exceeding 5 years. (Penal 1297.)

Every other larceny is Petit Larceny (Penal 1298) and is a misdemeanor. (Penal 1299.)

APPROPRIATING LOST PROPERTY.

A person who finds lost property under circumstances which give him knowledge or means of inquiry as to the true owner, and who appropriates such property to his own use, or to the use of another who is not entitled thereto, without first having made every reasonable effort to find the owner and restore the property is guilty of larceny. (Penal 1300.)

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PERJURY AND FALSIFYING EVIDENCE.

Perjury is committed when a person swears or affirms that he will truly testify, etc., or that any affidavit or other writing by him subscribed is true, and wilfully and knowingly testifies falsely, in any material matter, or states any material matter to be true, which he knows to be false. (Penal 1620.)

To constitute perjury the oath must be taken before some person competent to administer it. If a Bank officer make wilful false statements in his reports to the Superintendent of the Banking Department he is guilty of perjury. (People vs. Vail, 57 How. 81, 6 Abb., N. C. 206.)

Wilfully procuring another to commit perjury is subornation of perjury. (Penal 1632.)

PUNISHMENT.

- (a) When perjury or subornation of perjury is committed, upon trial of an indictment for felony, 20 years.
- (b) In any other case, 10 years. (Penal 1633.)

FALSIFYING EVIDENCE.

Offering false evidence, knowingly, in a trial or other proceeding authorized by law is a felony. (Penal 810.)

Making or preparing false record with intent to produce at trial or other proceeding is a felony. (Penal 811.)

Destroying evidence knowing it may be required in a trial or other proceeding is a misdemeanor. (Penal 812.)

Inciting or procuring another to commit perjury, though perjury not committed, is a misdemeanor. (Penal 813.)

A witness who receives a bribe to testify falsely is guilty of a felony. (Penal 379.)

Suppressing evidence is a misdemeanor. (Penal 814.)

PENAL LAW : DEFINITIONS AND GENERAL PROVISIONS

FRAUDS AND CHEATS.

Obtaining Money on negotiable evidence of debt purporting to be issued by or under the authority of any Banking company or corporation not in existence, is punishable by imprisonment in a state prison not exceeding seven years. (Penal 937.)

Using False Check or order for payment of money, knowing that the drawer thereof is not entitled to draw for the sum specified therein upon the drawee, is obtaining money by false pretenses and punishable by imprisonment in state prison for not more than three years, or in County jail for not more than one year, or by fine of not more than three times the value of property obtained, or by both. (Penal 938 and 932.)

Unauthorized Applications for Loans Upon Real Property.—In cities of first and second-class any person who shall make application to any person or corporation for a loan upon real property without written authority of the owner or prospective owner of such real property shall be guilty of a misdemeanor. (Penal 2039.)

WAIVER OF IMMUNITY BY WITNESS.

Waiver of Immunity by Witness.—A witness may file in County Clerk's office a statement expressly waiving any immunity or privilege granted by other sections of penal law for testimony given, and thereupon such testimony may be received in any proceeding against him and if so received he shall not be entitled to such immunity. (Penal 2446, being Chapter 312, Laws 1912, in effect April 13th, 1912.)

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CHAPTER XIV.

PENAL LAW: PROVISIONS GOVERNING SAVINGS BANKS.

TRUSTEES PRESUMED TO HAVE KNOWLEDGE.—USE OF WORD “SAVINGS” PROHIBITED.—FALSE RUMORS ABOUT SAVINGS BANKS.—MISAPPROPRIATION OF MONEY BY TRUSTEES.—UNAUTHORIZED INVESTMENTS.—CIRCULATING PRIVATE NOTES AS MONEY.—MISCONDUCT OF OFFICERS, TRUSTEES OR EMPLOYEES.—FALSIFICATION OF BOOKS.—FALSE AUDITING.—OVERDRAFTS.—COMMISSIONS ON LOANS.—RECEIVING DEPOSITS IN INSOLVENCY.—FRAUDULENT INSOLVENCY.—CORRUPT INFLUENCING OF EMPLOYEES.

NOTE.—All references contained in this and the preceding chapters are to the Penal Law, being Chapter 40 of the Laws of the State of New York.

TRUSTEES PRESUMED TO HAVE KNOWLEDGE.

A Trustee of a Savings Bank is deemed to have such a knowledge of the affairs of the Savings Bank as to enable him to determine whether any act, proceeding or omission of its trustees is a violation of the penal law governing banks and corporations. (Penal 667.)

If present at meeting he shall be deemed to have concurred therein, unless his dissent is recorded on the minutes. (Penal 667.)

If not present at meeting and act is recorded in minutes he shall be deemed to have concurred in such violation, if he remains a trustee for six months thereafter without requiring in writing that his dissent be recorded in minutes of meeting. (Penal 667.)

Term “*director*” when used in Penal Law governing Banking and Corporations includes trustees of savings bank. (Penal 667.)

PENAL LAW: PROVISIONS GOVERNING SAVINGS BANKS

USE OF WORD "SAVINGS"

In a corporate title except by Savings Banks or Savings and Loan Associations is a misdemeanor. Punishment \$100 fine for every day such offense is committed. (Banking Law 279-1 and Penal Law 666.)

Unauthorized use of term "*bank*" by a person not subject to the banking department and not engaged in such banking before May 23, 1885, is a misdemeanor. (Penal 302.)

FALSE STATEMENTS OR RUMORS AS TO SAVINGS BANKS.

A person who wilfully and knowingly makes, etc., or counsels, etc., another to make any untrue statement or rumor, whether written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects solvency or financial standing of any savings bank, is guilty of a misdemeanor and punishable by fine of not more than \$1,000 or by imprisonment for not more than one year, or both. (Penal 303, being Chapter 112, Laws of 1914, in effect April 4, 1914.)

FALSE RUMORS.

A person, who, with intent to affect market price of any securities of any State, municipality or corporation knowingly circulates any false statement, rumor or intelligence is punishable by fine of not more than \$5,000 or imprisonment for three years or by both. (Penal 926.)

MISAPPROPRIATION OF MONEY BY TRUSTEES.

A Trustee of a Savings Bank shall not use any money or property of the Savings Bank of which he is a trustee. (Article VIII, Chapter 4, of the Constitution of New York.)

Any officer, trustee or employee of a Savings Bank who abstracts or wilfully misapplies any of the money, funds or property of a savings bank or wilfully misapplies its credit, is guilty of a felony. (Penal 305, being Chapter 102, Laws of 1913, in effect September 1st, 1913.)

DIGEST OF SAVINGS BANK LAWS

Nothing in this section shall be deemed to repeal any existing provision prescribing a punishment for any such offense. (Penal Law 305, being Chapter 102, Laws of 1913, in effect September 1st, 1913.)

UNAUTHORIZED INVESTMENTS.

Any officer or trustee of a Savings Bank authorizing or making any investment of the savings bank's funds in unauthorized investments is guilty of a misdemeanor. (Penal 296.)

CIRCULATING PRIVATE NOTES AS MONEY.

A Savings Bank which :

- (a) receives or offers in payment as money, or
- (b) circulates or attempts to circulate as money any bank bill, note or evidence of debt in the similitude of a bank note, issued or purporting to have been issued by any person or corporation without this state and intended to circulate as money within this state, is guilty of a misdemeanor. (Penal 298.)

Having possession of counterfeit coin, with intent to pass or circulate the same as true or as false, is punishable by five years' imprisonment or fine of \$500, or both. (Penal 894.)

MISCONDUCT OF OFFICERS, TRUSTEES OR EMPLOYEES

- (a) who make or maintain a deposit of savings bank funds with any other corporation, with the understanding that a loan or advance, directly or indirectly, be made to one of them, or
- (b) who intentionally conceal from trustees any loans, sales or purchases of securities made between regular meetings, or
- (c) who knowingly fail to report to Board of Trustees, when required to do so by law, all loans, purchases and sales of securities made between regular meetings, is a misdemeanor. (Penal 290.)

PENAL LAW: PROVISIONS GOVERNING SAVINGS BANKS

(Section 264, Subdivision 3, of Banking Law, requires sworn report of investments to be made at least once a month.)

A trustee, officer, agent or employee of a Savings Bank who,

- (a) knowingly possesses himself of any of its property, otherwise than in payment of a just demand, and with intent to defraud omits to be made a full and true entry thereof in its books, or
- (b) makes or concurs in making any false entry or concurs in omitting to make any material entry, or
- (c) knowingly concurs in making or publishing any written report of its affairs containing a false material statement, or
- (d) Omits or concurs in omitting any statement required by law to be contained therein, or
- (e) Having custody of books wilfully refuses or neglects to make any proper entry in books as required by law, or
- (f) refuses to allow the same to be inspected by person entitled by law, or
- (g) omits to disclose to other trustees, officers and managers the fact that an application for an injunction affecting property of savings bank has been served upon him, or
- (h) refuses or neglects to make reports lawfully required by a public officer, IS GUILTY OF A MISDEMEANOR. (Penal 665.)

FALSIFICATION OF BOOKS OF SAVINGS BANK.

Any officer, trustee or employee of a Savings Bank who, with intent to deceive any officer, trustee, examiner, etc., lawfully appointed to examine or report on such Savings Bank,

- (a) makes a false entry in any book, etc., or
- (b) wilfully omits to make a true entry of any material particular pertaining to the business of such savings bank in any book, etc., written or kept by

DIGEST OF SAVINGS BANK LAWS

him or under his direction, IS GUILTY OF A FELONY. (Penal 304, being Chapter 208, Laws of 1912, in effect September 1st, 1912.)

FALSE AUDITING AND PAYING CLAIMS BY BANK.

The wilful auditing or paying a false or fraudulent claim whereby title of owner of deposit is impaired or affected is a felony, punishable by three to five years state's prison or fine of five times the value of property paid out or both. (Penal 1864.)

Conviction forfeits office held by offender, and is a disability to him holding any office or place of trust. (Penal 1864.)

OVERDRAFTS.

Any officer, trustee, clerk or employee of a savings bank who knowingly overdraws his account with such Bank and thereby obtains the funds of such Bank is guilty of a misdemeanor. (Penal 294-1.)

COMMISSIONS ON LOANS.

An officer, etc., who asks or receives or agrees to receive any commissions or gratuities or promises of commissions for promising or endeavoring to procure any loan from the Savings Bank or for permitting any person to overdraw his account, is guilty of a misdemeanor. (Penal 294-2.)

RECEIVING DEPOSITS IN INSOLVENCY.

An officer, agent, teller or clerk of any savings bank who receives any deposit knowing that such Savings Bank is insolvent is guilty of a misdemeanor, if amount received is \$25.00 or less.

If amount is \$25.00 or more, he is guilty of a felony punishable by not less than one nor more than five years, or a fine of not less than \$500 nor more than \$3,000, or by both. (Penal 295, being Chapter 383, Laws of 1914, in effect April 16th, 1914.)

PENAL LAW: PROVISIONS GOVERNING SAVINGS BANKS

FRAUDULENT INSOLVENCY AND MISCONDUCT OF TRUSTEES.

A trustee, who

- (a) in case of fraudulent insolvency of savings bank, shall have participated in the fraud, or
- (b) wilfully does any act expressly forbidden by law, or
- (c) wilfully omits to perform any duty imposed by law is guilty of a misdemeanor.

Insolvency is deemed fraudulent, unless affairs have been administered fairly, legally and with the same care and diligence as paid agents are bound by law to observe. (Penal 297.)

CORRUPT INFLUENCING OF EMPLOYEES.

- (a) Whoever gives, etc., an employee any gift, etc., without knowledge and consent of the employer, with intent to influence employee's action in relation to employer's business, *or*
- (b) employee who, without knowledge and consent of the employer, requests or accepts any gift, etc., with an understanding that he shall act in any particular manner in his employer's business, *or*
- (c) employee, who, being authorized to procure supplies, etc., by purchase or contract for his employer or to employ labor for his employer receives directly or indirectly a commission, discount or bonus from person selling materials, or furnishing or rendering service or labor, *or*
- (d) whoever gives or offers employee such commission, discount or bonus shall be guilty of a misdemeanor, punishable by a fine of not less than \$10.00 nor more than \$500.00, or by such fine and imprisonment for not more than one year. (Penal 439.)

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of

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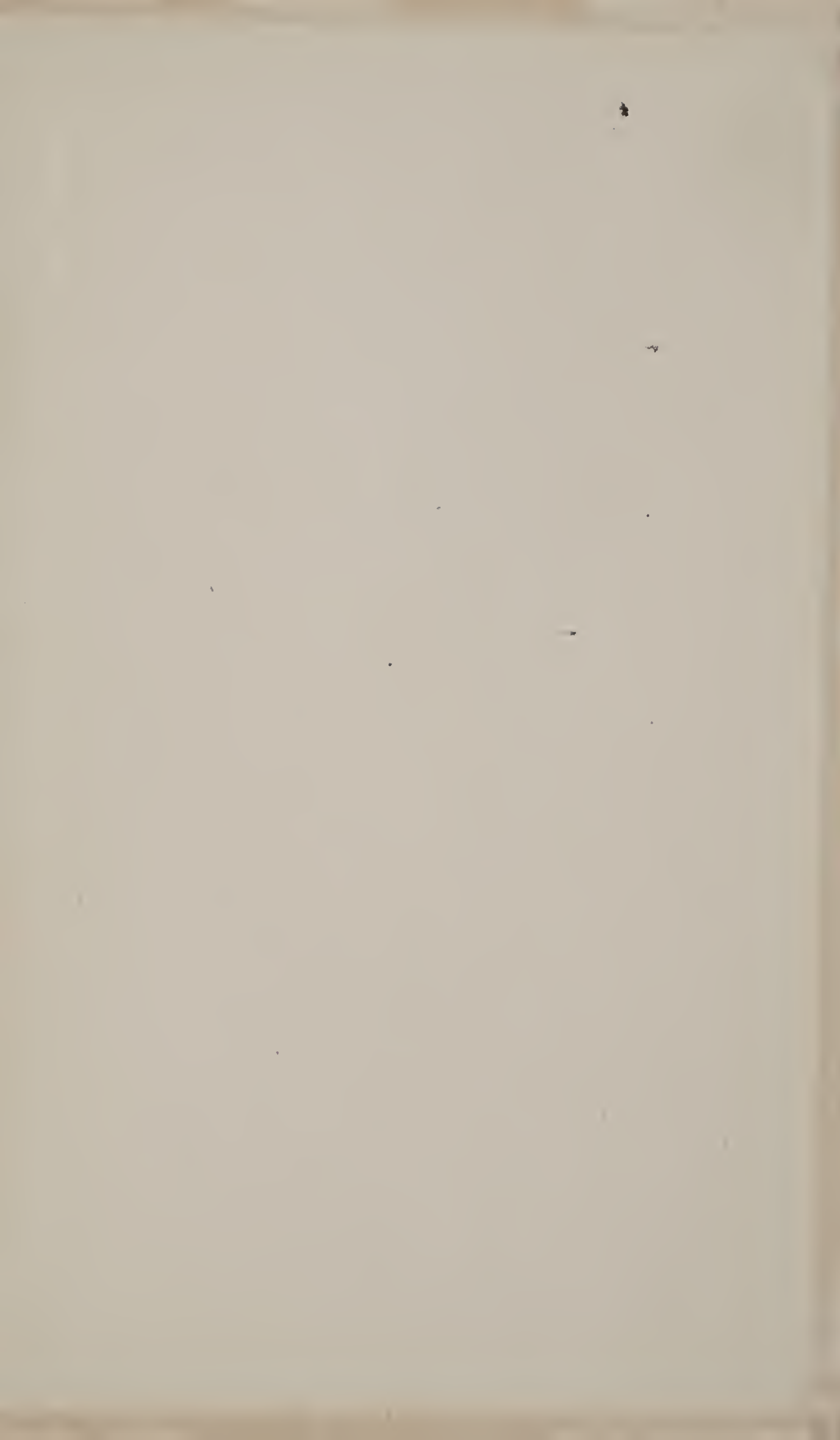
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